

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-4088

United States Court of Appeals

FOR THE SECOND CIRCUIT

GENERAL DYNAMICS CORPORATION, ELECTRIC BOAT DIVISION,

Petitioner,

—against—

BENEFITS REVIEW BOARD OF UNITED STATES DEPARTMENT OF LABOR; DIRECTOR,
OFFICE OF WORKERS' COMPENSATION PROGRAMS; INSURANCE COMPANY OF
NORTH AMERICA AND HELEN SOBOLEWSKI, WIDOW OF JOSEPH SOBOLEWSKI,
DECEASED AND THE ESTATE OF JOSEPH SOBOLEWSKI, DECEASED,

Respondents.

APPENDIX

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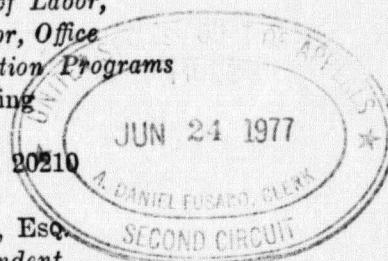
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NOTE:

* The administrative record contains no docket entries.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

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GENERAL DYNAMICS CORPORATION, ELECTRIC	:	
BOAT DIVISION,	:	PETITION FOR
	:	<u>REVIEW</u>
Petitioner,	:	
	:	
-against-	:	
BENEFITS REVIEW BOARD OF UNITED STATES	:	
DEPARTMENT OF LABOR,	:	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION	:	
PROGRAMS,	:	
INSURANCE COMPANY OF NORTH AMERICA AND	:	
HELEN SOBOLEWSKI, WIDOW OF JOSEPH	:	
SOBOLEWSKI, DECEASED AND THE ESTATE	:	
OF JOSEPH S. SOBOLEWSKI, DECEASED,	:	
	:	
Respondents.	:	
-----X		:

General Dynamics Corporation, Electric Boat Division,
hereby petitions this Court, pursuant to Section 21(c) of the
Longshoremen's & Harbor Workers' Compensation Act, 33 U.S.C.
901, et seq., to review the final order of the Benefits Review
Board, Department of Labor, issued and filed February 16, 1977,
BRB No. 76-306, which affirmed the decision and order of the
Administrative Law Judge, dated June 10, 1976, Case No. 76 -
LHCA-204, OWCP No. 1-15584, and awarded compensation to the
employee-respondent's estate and his widow, Helen Sobolewski.

Dated: New York, New York

April 15, 1977

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KIRLIN, CAMPBELL & KEATING

BY:

[Signature]
A Member of the Firm

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The following are to be served with a copy of this Petition, pursuant to Rule 15(c) of the Federal Rules of Appellate Procedure:

1. Benefits Review Board of the United States Department of Labor, Office of Workers' Compensation Programs, Operations Division, New Labor Building, Room S-3524, Washington, D.C. 20210.
2. William J. Kilberg, Esq., Solicitor of Labor, United States Department of Labor, Attorney for Director, Office of Workers' Compensation Programs, New Labor Building, Room S-2002, Washington, D.C. 20210.
3. Douglas B. Johnson, Esq., Attorney for Insurance Company of North America, 109 Church Street, New Haven, Connecticut 06510.
4. Frank W. Daley, Esq., Attorney for Insurance Company of North America, 205 Church Street, New Haven, Connecticut 06510.
5. O'Brien, Shafner, Garvey, Bartinik & Stuart, Attorneys for Respondents, Helen Sobolewski, Widow of Joseph S. Sobolewski, Deceased and The Estate of Joseph S. Sobolewski, Deceased, Bridge Street at Route One, Post Office Drawer 929, Groton, Connecticut 06340.

U.S. DEPARTMENT OF LABOR
 BENEFITS REVIEW BOARD
 WASHINGTON, D.C. 20210

FILED AS PART
 OF THE RECORD
 FEB 16 1977



JOSEPH S. SOBOLEWSKI (DECEASED))
 HELEN SOBOLEWSKI (WIDOW))
)
 Claimants-Respondents)
)
 v.)
)
 GENERAL DYNAMICS CORPORATION)
)
 Self-Insured Employer-)
 Petitioner)
)
 INSURANCE COMPANY OF NORTH AMERICA)
)
 Carrier-Respondent)

(date)

Susan Ramlie
 (Clerk)
 Benefits Review Board

BRB No. 76-306

DECISION

Appeal from the Decision and Order of Louis Scalzo,
 Administrative Law Judge, United States Department
 of Labor.

Matthew Shafner (O'Brien, Shafner, Garvey, Bartinik &
 Stuart), Groton, Connecticut, for the claimant.

Norman P. Beane & Richard N. Curtin (Murphy & Beane),
 Boston, Massachusetts, for the employer.

Douglas B. Johnson & Frank W. Daley, New Haven,
 Connecticut, for the carrier.

Before: Washington, Chairperson, Hartman and Miller,
 Members.

Hartman, Member:

This is an appeal by the employer from a Decision and
 Order (76-LHCA-204) of Administrative Law Judge Louis Scalzo
 pursuant to the provisions of the Longshoremen's and Harbor
 Workers' Compensation Act, as amended, 33 U.S.C. §901 et seq.
 (hereafter referred to as the Act).

Joseph Sobolewski (hereafter, the claimant) was employed by General Dynamics from 1941 to 1973. From 1955 to 1973, he worked as a pipe lagger, a pipecoverer, and ultimately as a working leader. Throughout this period, claimant was often exposed to asbestos in various forms, i.e. when the dry asbestos powder was being mixed, when the blanket type asbestos was being cut, and when insulation materials containing asbestos were removed from submarines. In 1968, a chest x-ray given by employer showed claimant to have a degree of pulmonary fibrosis. In 1972, a chest x-ray showed fourteen types of abnormalities plus his ventilatory studies showed values lower than predicted. His 1973 chest x-ray showed pleural scarring, pulmonary lesions, and probable asbestosis with the possibility of a tumor being present. Following the 1972 and 1973 tests, employer informed claimant that he should have follow-up studies done by his family physician. However, he did not seek medical attention until July 1973 at which time he had discovered a lump under his arm and had experienced a sudden weight loss. He was hospitalized and a diagnosis of carcinoma of the left lung with auxiliary lymph node metastasis was made. Until the time of his hospitalization, claimant had worked steadily. Following the hospitalization, claimant did return to work but only for five days. Claimant died of lung cancer in October 1973.

The administrative law judge found that claimant's lung condition which led to his death was causally related to his employment. He awarded compensation for permanent total

disability to the claimant's estate from June 29, 1973 to October 10, 1973, except for the five days he worked following his July hospitalization. Claimant's widow was also awarded benefits under Section 9, 33 U.S.C. §909. The compensation payments were to be based on an average weekly wage of \$233.47. An attorney's fee of \$6,000 was also awarded. The administrative law judge also determined that General Dynamics and not the Insurance Company of North America was responsible for all of these payments.

The employer appeals contending that the administrative law judge erred in holding General Dynamics, rather than the Insurance Company of North America, responsible for the payment of the award, that the administrative law judge erred in using Section 10(c), rather than Section 10(a) of the Act, 33 U.S.C. §§910(a) & (c) in determining claimant's average weekly wage, and that the attorney's fee awarded by the administrative law judge was excessive.

The Insurance Company of North America went off the risk on April 1, 1973, at which time General Dynamics became a self-insured employer. The record indicates that claimant worked a full schedule until July 1973 and was exposed to asbestos throughout this period. While it cannot be definitively stated when claimant's lung cancer first manifested itself, claimant's x-rays when viewed in retrospect clearly detailed the progress of claimant's worsening lung condition. However, the record contains no evidence that claimant was

aware that he was suffering from an occupational disease prior to his hospitalization in July 1973. Nowhere is it shown that employer had ever informed claimant that there was any connection between his suspicious x-rays and his employment. Therefore, the administrative law judge in holding General Dynamics responsible for payments correctly applied the rule in Travelers Insurance Co. v. Cardillo, 225 F.2d 137 (2nd Cir. 1955), cert. denied, 350 U.S. 913 (1955). This rule states that the responsible insurer is the last insurer during which time the claimant was exposed to injurious stimuli prior to the date claimant became aware he was suffering from an occupational disease. See also Gray v. General Dynamics Corp., 5 BRBS 279, BRB No. 76-105 (Dec. 21, 1976).

Employer also argues that the administrative law judge erred in calculating the average weekly wage under Section 10(c) rather than Section 10(a), in that it alleges claimant was a five day worker who had worked substantially the whole of the year prior to his injury. The administrative law judge used Section 10(c) in that he concluded that claimant was not a five or six day worker. He also noted that he would be unable to include claimant's 5.275% pay increase effective in July 1973 if Section 10(a) was applied.

In considering the issue of average weekly wage, it should first be noted that the overriding objective of Section 10 of the Act is to arrive at a reasonable approximation of claimant's probable future earning capacity.

Toraiff v. Triple A Machine Shop, 1 BRBS 465, BRB No. 74-

205 (May 14, 1975). The Board concludes that in this case the application of Section 10(a) would not result in the best approximation of claimant's probable future wage-earning capacity. In the instant claim, claimant often worked overtime on Saturdays, but not on enough Saturdays to be legitimately classified as a six day worker under Section 10(a). Therefore, employer argues that claimant should be treated as a five day worker and that his average weekly wage should be determined as follows: Average annual earnings would be obtained by multiplying 260 times the product of eight hours a day times claimant's hourly rate. This sum would in turn be divided by 52 to give the average weekly wage. However, employer's method is unacceptable in that it would ignore claimant's overtime which if a regular and normal part of his employment should be included in the calculation of the average weekly wage. Gray v. General Dynamics Corp., *supra*.

Where a claimant works Saturday overtime but cannot be classified as a six day worker, applying Section 10(a) as if he were a five day worker would not result in an average weekly wage that is a truly reasonable approximation of claimant's wage-earning capacity as it would not reflect part of his regular overtime.

The administrative law judge's application of Section 10(c) recognizes that claimant worked a regular pattern of overtime. His method also recognized the fact that claimant received a substantial pay increase around the time he was

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forced to leave work, an increase that would not be fully recognized under Section 10(a) which mandates a figure based on all actual earnings for the year prior to the injury. Thus, the Board finds that the administrative law judge's figure for an average weekly wage is a reasonable approximation of claimant's future earning capacity.

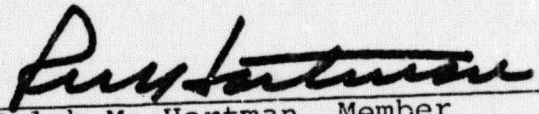
As concerns employer's argument that the attorney's fee awarded was excessive, the Board notes that the award must be affirmed unless employer shows it to be arbitrary, capricious, or an abuse of discretion. Murillo v. Offshore Food Service, Inc., BRB No. 73-141 (May 19, 1974), aff'd sub. nom., Offshore Food Service, Inc. v. Benefits Review Board, 524 F.2d 967 (5th Cir. 1975). The Board concludes that employer has not met the burden in this case.

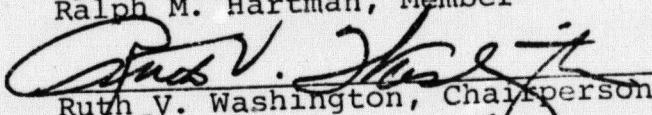
The claimant's attorney has requested approval of a fee for services successfully rendered in this appeal. Having submitted to the Board a statement of the extent and character of the necessary legal services rendered, in accordance with the applicable Rules and Regulations, 20 C.F.R. §§702.132, 802.203, the claimant's attorney is awarded a fee of \$350 to be paid by the employer in a lump sum directly to claimant's attorney.

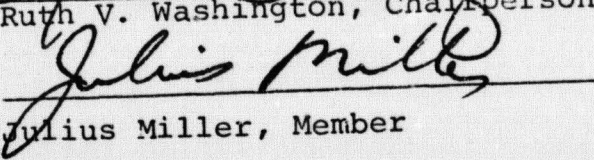
Accordingly, the Decision and Order of the administrative law judge is affirmed.

We Concur:

Dated this 16th day
of February, 1977.


Ralph M. Hartman, Member


Ruth V. Washington, Chairperson


Julius Miller, Member

SERVICE SHEET

BRB No. 76-306: HELEN SOBOLEWSKI (Widow of JOSEPH S. SOBOLEWSKI) v. GENERAL DYNAMICS CORP. & INSURANCE COMPANY OF NORTH AMERICA
(Case No. 76-LHCA-204)

Copies of this Decision have been sent to the following parties:

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.....
IN THE MATTER OF

JOSEPH S. SOBOLEWSKI, DECEDENT
HELEN SOBOLEWSKI, WIDOW

Claimant

v.

GENERAL DYNAMICS CORPORATION

Employer

INSURANCE COMPANY OF NORTH AMERICA

Carrier

Case No. 76-LHCA-204
OWCP No. 1-15584

FILED AS PART
OF THE RECORD

JUL 7 1976

(date)

SBR
(Clerk)

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For the Carrier

BEFORE: LOUIS SCALZO
Administrative Law Judge

- 2 -

DECISION AND ORDER

Statement of the Case

This proceeding involves a claim arising under the provisions of the Longshoremen's and Harbor Workers' Compensation Act, 44 Stat. 1424, as amended, 33 U.S.C. §901 et seq., (hereinafter referred to as "the Act"). The case was referred to the Office of Administrative Law Judges for formal hearing and decision in accordance with the provisions of Section 19(d) of the Act, 33 U.S.C. §919(d), and the Rules and Regulations implementing the Act, 20 C.F.R. Parts 701 and 702.

Issues

The general issue posed relates to the question of entitlement to benefits under the Act. Specific issues relate to:

1. Whether a timely notice of injury was filed in accordance with the provisions of Section 12(a) of the Act, 33 U.S.C. §912(a), with respect to a claim for permanent total disability compensation.
2. Whether a timely claim was filed in accordance with the provisions of Section 13(a) of the Act, 33 U.S.C. §913(a), with respect to the claim for permanent total disability compensation.
3. Whether a timely notice of death was filed in accordance with the provisions of Section 12(a), with respect to a claim for death benefits.
4. Whether a timely claim was filed in accordance with the provisions of Section 13(a) with respect to the claim for death benefits.
5. Whether the Decedent was, prior to death, suffering from permanent total disability as a result of occupational disease arising out of the Decedent's

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employment, and if so, the date of onset and termination of such period of total disability.

6. Whether the death of the Decedent was causally related to an occupational disease, and if so, whether the death of the Decedent gives rise to a death benefits claim under the provisions of Section 9 of the Act, 33 U.S.C. §909.

7. Whether a notice of controversion was filed in accordance with the provisions of Section 14(d) of the Act, 33 U.S.C. §914(d), with respect to the claim for permanent total disability compensation.

8. Whether a notice of controversion was filed in accordance with the provisions of Section 14(d) of the Act, with respect to the claim for death benefits.

9. Determination, within the meaning of Section 10 of the Act, 33 U.S.C. §910, of the average weekly wage earned by the Decedent on the date of injury.

10. Whether medical expenses incurred are recoverable under the provisions of Section 7 of the Act, 33 U.S.C. §907.

11. Whether amounts claimed for an attorney's fee, expert witness fee and costs, are recoverable under the provisions of Section 28 of the Act, 33 U.S.C. §928.

12. If benefits are payable under the provisions of the Act, whether the Insurance Company of North America is liable for the payment of such benefits.

Upon the entire record in this case, I make the following Findings of Fact, Conclusions of Law and Order.

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Findings of Fact and Conclusions of Law1. Stipulations

Counsel for the Claimant and Respondents have stipulated the following facts:

1. That the Decedent first discontinued work activity on June 29, 1973. (Tr. 58-59).
2. That the Decedent experienced no loss of wage earning capacity prior to June 29, 1973. (Tr. 62).
3. That the Decedent returned to work activity on July 26, 27, 30, and 31, 1973, and August 1, and 7, 1973. (Tr. 59-60, Claimant's Brief at 2).
4. That no claim is made for permanent total disability compensation for July 26, 27, 30, and 31, 1973, and August 1, and 7, 1973. (Tr. 109).
5. That the Decedent expired on October 10, 1973. (Tr. 58).
6. That the immediate cause of death of the Decedent was carcinoma of the lung. (Tr. 60).
7. That Mrs. Helen Sobolewski is a "widow" within the meaning of the Act, and that there are no dependents within the meaning of the Act. (Tr. 61-62).
8. That the Decedent is an "employee" and that the Employer is an "employer" within the meaning of the Act, and that they are subject to the provisions of the Act. (Tr. 62-63).
9. That compensation payments and medical expenses have not been paid.
10. That the Employer became a self-insured Employer on April 1, 1973, and that the insurance company of North America was the Employer's workmen's compensation insurance carrier prior to this date. (Tr. 168).

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2. Claims and Contentions Outlined

Counsel representing the Claimant asserts that the Decedent was exposed to asbestos materials during many years of employment as a pipelagger by General Dynamics, and that as a result of such exposure the Decedent developed fatal cancer of the lung. Counsel claims that the estate of the Decedent is entitled to compensation for permanent total disability from June 29, 1973, until October 10, 1973, the date of death, with the exception of days worked in July and August of 1973. He also claims death benefits for the Decedent's widow, all medical expenses incurred prior to death, which have not been paid by the Employer, additional compensation provided under the provisions of Section 14(e) of the Act, 33 U.S.C. §914(e) for alleged failure of the Employer to file timely notice of controversion in accordance with the provisions of Section 14(d) of the Act, 33 U.S.C. §914(d), with respect to claims for permanent total disability compensation and death benefits, 1/ an attorney's fee, reimbursement of an expert witness fee, and costs.

1/ Counsel for the Claimant also argues in his closing brief that the penalty provided in Section 30(e) of the Act, 33 U.S.C. §930(e) should be assessed against the Employer for failure of the Employer to file an "Employer's First Report of Accident or Occupational Illness" with the Secretary as is required by Section 30(a) of the Act, 33 U.S.C. §930(a), and 20 C.F.R. §§702.201 through 702.204. However, this issue was not specifically raised during the course of the hearing, and neither the Secretary, nor his representative participated as a party. Accordingly, the record would provide no basis for a finding against the Employer for failure to file such a report.

The initiation of proceedings to recover such a penalty under the provisions of the Act, would be the appropriate concern of the Secretary or his representative. In this regard it must be noted that Section 44(c)(3) of the Act, 33 U.S.C. §944(c)(3) provides that all amounts collected as fines and penalties should be paid into the Special Fund created by Section 44(a), 33 U.S.C. §944(a).

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The Employer contends that the claim is time-barred by the statute of limitations; that the death of the decedent was due to lung cancer unrelated to employment; that if the Decedent did develop lung cancer as a result of work-related exposure to asbestos materials, the cancerous condition was present prior to April 1, 1973, during the period of time when the Insurance Company of North America was exposed to the risk of loss stemming from workmen's compensation insurance coverage provided to the Employer by reason of the Act; that the Decedent was not exposed to asbestos materials on or after April 1, 1973, the date on which General Dynamics became a self-insured employer; and lastly, that if the Decedent did experience harmful work-related exposure to asbestos materials on or after April 1, 1973, such exposure played no role in the development of lung cancer, which development, it is asserted, occurred prior to April 1, 1973.

The Insurance Company of North America contends that since their liability for workmen's compensation insurance coverage expired, and that since General Dynamics became a self-insured Employer as of April 1, 1973, General Dynamics must be liable for any benefits payable under the provisions of the Act. In this regard, it is argued that Decedent was, not, during his lifetime, aware that he was suffering from an occupational disease related to employment, that the Decedent was exposed to injurious stimuli in his work environment after April 1, 1973, and that under the "last employer rule," General Dynamics would be responsible for any benefits payable under the Act.

Following the hearing Dr. Ruth Lilis, a specialist with extensive experience in occupational disease generally, and asbestosis in particular, was deposed on behalf of the Claimant. Dr. Elliott L. Sagall a physician certified by the American Board of Internal Medicine and Board of Cardiovascular Disease, testified at the hearing on behalf of the Employer. The opinions of both physicians were based upon a medical record examination and not actual examination of the Decedent prior to death.

3. Exposure to Asbestos Materials

The record reflects that the Decedent commenced employment with General Dynamics on March 17, 1941, as a crane operator, and that from November 28, 1955, until approximately the date of initial discontinuance of work activity on

June 29, 1973, he engaged in work involving exposure to asbestos materials. This included classifications as a pipecoverer or pipelagger, pipecoverer specialist, and working leader. (Claimant Exhibits 14-2 and 14-3).

Decedent's work was performed aboard submarines. It was brought out that asbestos material was not considered a serious health hazard until sometime in 1971, and that there was more danger from exposure to asbestos in the close quarters found aboard submarines. When engaged as a working leader, the Decedent worked in close proximity to pipelaggers working with asbestos materials, and was similarly exposed to such materials.

The Decedent worked with approximately nine different materials, and about eight-five to ninety percent of such material contained asbestos. About twenty percent of the asbestos material was in powder form for use as a wet mix. This proved to be particularly harmful as asbestos dust would be generated in the mixing process. The cutting of blanket type asbestos also created asbestos dust conditions. Very dangerous exposure of the Decedent to asbestos material was also precipitated when he was assigned to tasks involving the removal of insulation materials in the repair of vessels. It was estimated that about thirty percent of old asbestos covering was reduced to powder form in such removal work, and that about fifty percent of the Decedent's work included this type of activity.

The work of the Decedent involved use of asbestos material in close proximity to his face, ^{2/} and it was brought out that the Decedent had lunch in an area close to that utilized for the sawing of asbestos blankets and blocks, thus increasing the risk of exposure. Because of the Decedent's small stature he was often assigned to work in particularly close quarters.

^{2/} Claimant Exhibits 5-2 and 5-3 reflect that a piece of asbestos fiber became embedded in the Decedent's right eyelid on July 26, 1971.

Testimony was adduced which reflected that respirators were not required by the Employer until 1971 or 1972, and that the Decedent only utilized a respirator about fifty percent of the time due to the difficulty of using such safety equipment in close quarters.

Although the Employer introduced evidence indicating that the dangerous conditions generated by the use of asbestos materials were being gradually eliminated commencing with a date late in 1971, serious exposure, insofar as the Decedent's work activity was concerned, continued throughout the period of the Decedent's employment.

4. Summary of Medical and Other Evidence

An early disclosure of the probable results of exposure to asbestos materials in the Decedent's work environment is reflected in an October 14, 1968 X-ray report found among the Employer's medical records relating to the Decedent. This revealed the finding that there was "some slight increase in the lung markings at the base which may represent some minimal degree of pulmonary fibrosis." Dr. Lilis characterized this report as significant in this case. (Deposition 15-16, 17).

Pulmonary function tests dated January 9, 1972 disclosed a forced vital capacity significantly lower than that predicted. (Claimant Exhibit 5-4). Dr. Lilis described this result as a characteristic change in cases of asbestosis. She stated that the most probable cause of this reduced vital capacity was "asbestos fibrosis of the lungs." (Deposition 25-26).

A General Dynamics Chest Survey X-ray report dated February 8, 1972, reflects an abnormal X-ray with the notation "question pulmonary lesion." (Claimant Exhibit 5-5). Dr. Lilis testified that this X-ray reflected fourteen types of abnormality. (Deposition 17-18). A follow-up General Dynamics X-ray examination report dated February 18, 1972 disclosed further evidence of asbestosis. (Claimant Exhibit 5-6, Deposition 16-17). A similar Employer report dated March 9, 1972 disclosed the notation, "this probably represents some type of pulmonary fibrosis." (Claimant Exhibit 5-7). Dr. Sagall testified that the latter finding was consistent with a diagnosis of asbestosis. (Tr. 37).

Employer Exhibit 1-1, a copy of a General Dynamics "To Whom It May Concern" memo dated May 18, 1972, reflects the notation that the Decedent was "again" told to see his family doctor about abnormal conditions found through radiologic examination. The memo served to apprise the Decedent of the abnormal findings, and further that the Employer would not assume the cost of further examination.

An Employer's Chest Survey X-ray report dated January 19, 1973, refers to pleural scarring, pulmonary lesions, probable asbestosis, and possible tumor. This document also reflects a notation to the effect that the Decedent had not yet consulted his family doctor about his condition. (Claimant Exhibit 5-13). Dr. Sagall's testimony disclosed the concession that he felt the preparer of the latter report was of the opinion that the X-ray film involved "was suggestive of asbestosis." (Tr. 39). Dr. Sagall admitted he had not examined the X-ray film referred to in Claimant Exhibit 5-13 (Tr. 39), or any other X-ray film relating to the Decedent. A General Dynamics Physical Examination Record bearing the notation "completed 1-23-73" refers to the abnormal chest X-ray report of January 19, 1973, and the fact that no report had been received from the Decedent's family doctor. (Claimant Exhibit 5-8).

On July 1, 1973, the Decedent was hospitalized because of a swelling in the right arm pit. He was discharged on July 7, 1973, with a diagnosis, of, "probable carcinoma of left lung with axillary lymph node metastasis." (Claimant Exhibit 1-1). In connection with this hospitalization, the Decedent filed a claim under a separate insurance policy covering non-work related illness. A form dated July 1, 1973, relating to this claim was submitted to the Employer. (Post-Hearing Exhibit 4). 3/ In this regard the Decedent's

3/ A series of fourteen post-hearing exhibits were supplied by counsel for the Claimant. See letter dated February 26, 1976. Thereafter, counsel representing General Dynamics and the Insurance Company of North America stipulated the admission of such documents. (See letters addressed to the Administrative Law Judge). The mentioned exhibits and letters are herewith made a part of the record in this case.

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wife testified that she caused details relating to the hospitalization of the Decedent to be submitted to the Employer for insurance purposes. (Tr. 84). She testified that some, but not all hospital expenses, were paid under the Employer's insurance plan. (Tr. 84-85). 4/

A Report of Consultation dated July 2, 1973, comprising part of the hospitalization record, and a supporting chest X-ray film, was considered of great significance by Dr. Lilis who expressed the opinion that the Decedent was then manifesting asbestosis of slight to moderate degree. (Claimant Exhibit 1-2, Deposition 14-15). A discharge summary relating to the July 1973 hospitalization noted that the Decedent's breath sounds manifested "rales at the right base." (Claimant Exhibit 1-5). Dr. Lilis expressed the view that this finding was considered significant in cases of asbestosis-related fibrosis of the lungs. (Deposition 21).

A form completed by the hospital and transmitted to the Employer reflects information relating to the diagnosis of possible lung cancer. This is stamped as being received by the Employer on July 13, 1973. (Post-Hearing Exhibit 9). A more detailed report relating to the Decedent's condition was made available to the Employer, as of July 25, 1973. (Claimant Exhibit 4). This report notes that the Decedent should be "permanently barred from contamination and radiation areas."

On October 7, 1973, the Decedent was again hospitalized due to a deterioration of his condition. He expired on October 10, 1973. 5/ The final diagnosis was carcinoma

4/ Counsel for the Claimant claims reimbursements for all medical expenses including those paid under the terms of a policy of group insurance on the theory that Decedent contributed to the group health insurance plan. (Tr. 65).

5/ Claimant Exhibit 13-1 reflects documentary proof that as of October 17, 1973, the Employer received written notice of death due to lung cancer. Burial expenses in the amount of \$2,747.11 were paid by the Decedent's widow. (Claimant Exhibit 9).

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of the lung with metastasis. (Claimant Exhibits 2-1 and 2-2). A treating physician reported that at the time of death lung cancer was established as a cause of death. However, he added that the pulmonary changes involved in Decedent's case were suggestive, but not diagnostic of, an additional diagnosis of asbestosis. (Claimant Exhibit 6). An Employee's Claim for Compensation, Form BEC 203, based upon death due to asbestosis, was filed with the Office of Workers' Compensation Programs on October 4, 1974. Claimant Exhibits 11-2 and 11-3).

A notice dated February 7, 1975, designed to advise that a claim had been filed, was addressed to the Employer (Claimant Exhibit 11-8), as was a letter of the same date, requesting that the Employer file an "Employer's First Report of Accident or Occupational Illness," (BEC Form 202). (Claimant Exhibit 11-6). The record reflects that such a report was not filed by the Employer until October 14, 1975. (Claimant Exhibit 11-4 and 11-5).

Dr. Lilis definitively concluded that the Decedent had, prior to death, manifested clear objective symptoms of asbestosis, and she had no difficulty in characterizing the Decedent as having contracted this disease. (Claimant Exhibit 7, Deposition 26). Furthermore, she found a high probability of specific causal relationship between the Decedent's fatal lung cancer and exposure to asbestos. (Claimant Exhibit 7, Deposition 27, 40-41, 43-44, 48).

Dr. Lilis testified that asbestosis is always caused by the inhalation of asbestos (Deposition, 27), and that the disease develops over a long period of time. (Deposition 46). Both Dr. Sagall and Dr. Lilis testified concerning a causal connection between the disease of asbestosis and the subsequent development of lung cancer. Medical evidence of record relating to this point reflects no controversy. (Tr. 32-33, 46, 54-55, Deposition 6-7, 8, 10-11).

However, Dr. Sagall was uncertain as to whether a diagnosis of asbestosis could be made in this case, and he felt that a causal connection between lung cancer and work-related exposure to asbestos could not be found in the absence of a prior diagnosis of asbestosis. Claimant Exhibit 12,

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a copy of an August 22, 1975 letter addressed to counsel for General Dynamics by Dr. Sagall, states:

...the causal connection between this man's lung cancer and death therefrom and his occupational employment remains questionable and unestablished.

In connection with formulation of his expert opinion, Dr. Sagall admitted that he did not examine any actual X-ray film (Tr. 33-34), that he did not examine pulmonary function tests admitted into the record (Tr. 31) and that he did not examine records relating to the Decedent's final radiological examination in October of 1973 (Tr. 33). Furthermore, Dr. Sagall admitted that he had not personally treated many asbestos-related diseases (Tr. 20-21), and that he had not conducted any independent research in this field of study. (Tr. 31).

Dr. Sagall did conclude that the cancerous condition had existed as far back as February of 1972. (Tr. 27). Dr. Lilis found that the cancer had developed by late 1972. (Deposition 45). Both Dr. Sagall and Dr. Lilis were of the opinion that early exposure to asbestos, as distinct from later exposure, would have precipitated the development of cancer; however, the record does not specifically reflect a date of onset for the cancerous condition. In this regard, Dr. Sagall testified that any exposure to asbestos after the initial development of lung cancer would not have ceased having a detrimental effect upon the Decedent's condition. (Tr. 53).

There is no evidence that the Decedent was ever intelligently aware that he was suffering from lung cancer causally related to his work environment, nor is there any indication that the Decedent was ever apprised that he was suffering from asbestosis or lung cancer.

The record disclosed that during the one year period intervening between July 1, 1972 through June 30, 1973, the Decedent worked a total of 260 days, and earned a total of \$11,532.35. (Post Hearing Exhibit 14). With regard to this period, Post Hearing Exhibit 14 also reflects that the Decedent worked five-day weeks during each of thirty weeks, six-day weeks during each of fourteen weeks, and seven-day weeks during each of three weeks. He also had one four-day week, one week consisting of one days work plus vacation time, and three separate weeks of vacation time. It also appeared that the Decedent's hourly rate of pay would have advanced from \$4.55 to \$4.79 as of July 1, 1973. (Post Hearing Exhibit 14). This would have resulted in an hourly rate increase of 5.275%

5. Notice of Injury and Death was Timely and the Claim was Filed in a Timely Manner

Since the contention that the claim is time-barred presents threshold issues, it seems appropriate to address these questions at the outset.

Sections 12(a)-(d) of the Act, 33 U.S.C. §912(a)-(d) provide that a claim will be barred if there is a failure to file written notice with the employer and the deputy commissioner within thirty days of injury or death. Leyden v. Capitol Reclamation Corporation, 2 BRBS 24, BRB Nos. 74-226 and 74-226A (June 24, 1975).

Section 12(a) of the Act relating to the notice of injury or death to be filed by the employee, provides:

Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury occurred, and (2) to the employer. (Emphasis added).

However, Section 12(d) of the Act provides:

Failure to give such notice shall not bar any claim under this Act (1) if the employer (or his agent in charge of the business in

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the place where the injury occurred) or the carrier had knowledge of the injury or death and the deputy commissioner determines that the employer or carrier has not been prejudiced by failure to give such notice, or (2) if the deputy commissioner excuses such failure on the ground that for some satisfactory reason such notice could not be given; nor unless objection to such failure is raised before the deputy commissioner at the first hearing of a claim for compensation in respect of such injury or death.

The time for filing of claims is set out in Section 13(a) of the Act, 33 U.S.C. §913(a), which provides as follows:

Except as otherwise provided in this section, the right to compensation for disability or death under this Act shall be barred unless a claim therefor is filed within one year after the injury or death....Such claim shall be filed with the deputy commissioner in the compensation district in which such injury or death occurred. The time for filing a claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment. (Emphasis added).

Section 30(f) of the Act, 33 U.S.C. §930(f) provides:

Where the employer or the carrier has been given notice, or the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier has knowledge, of any injury or death of an employee and fails, neglects, or refuses to file report thereof as required by the provisions of subdivision (a) of this section, the limitations in subdivision (a) of section 13 of this Act shall not begin to run against the claim of the injured employee or his dependents entitled to compensation, or in favor of either the employer or the carrier, until such report shall have been furnished as required by the provisions of subdivision (a) of this section.

In occupational disease cases, the time limitation for filing a notice of injury or death, and for filing a claim begins to run when the employee knows of the relationship between the employment and the disease, or reasonably should have been aware of such a relationship. Independent Stevedore Co v. Massey, BRB No. 117-73 (Jan. 29, 1974); Smith v. Atlantic Sandblasting Service, Inc., 1 BRBS 97, BRB No. 74-133 (August 30, 1974). A claim for occupational disease accrues only when the cumulative effects of exposure manifest themselves. Independent Stevedore Co. v. Massey, *supra*. In Davis v. Strachan Shipping Company, 2 BRBS 272, BRB Nos. 75-102 and 75-102A (Sept. 18, 1975), the Benefits Review Board followed the rule set out in Aerojet-General Shipyards, Inc. v. O'Keefe, 413 F. 2d 793 (5th Cir. 1969), where it was specifically held that in occupational disease cases, the one year period does not begin to run until the cumulative effects of exposure manifest themselves to a physician who informs the claimant of a work relationship.

In this case the record reflects that on or about July 1, 1973, the Employer received knowledge of the Decedent's initial hospitalization, and that the Decedent's wife testified that she caused details relating thereto to be submitted to the Employer for insurance purposes. Complete details relating to probable lung cancer were made available to the Employer within a thirty-day period of time after the date of injury. (Post-Hearing Exhibit 9 and Claimant's Exhibit 4). The Employer also received notice of death due to lung cancer as of October 17, 1973, or within thirty days after death. (Claimant Exhibit 13-1).

Although the record in this case discloses a failure to comply strictly with the reporting requirements of Section 12, it also shows that the Employer was well aware of the Decedent's prior exposure to asbestos materials, and of X-rays indicating a pattern of abnormality associated therewith. These facts, together with the Employer's knowledge of Decedent's lung cancer before and after death lead to the inescapable conclusion that the Employer had "knowledge" of the type required by Section 12(d) of the Act. Davis v. Strachan Shipping Company, *supra*; Leyden v. Capitol Reclamation Corporation, *supra*.

There is no indication that the Employer has been prejudiced by failure to give notice as prescribed by Section 12(a). In situations where an employer has knowledge of the type found here, then such employer has the burden of establishing proof of actual prejudice due to the failure of a claimant to comply with

Section 12(a). Leyden v. Capitol Reclamation Corporation, supra. Here the Employer introduced no argument or proof to show specific prejudice due to failure to comply with Section 12(a). Accordingly, in the light of Section 12(d) of the Act, it must be concluded that the claim is not barred by reason of non-compliance with Section 12(a). 6/

However, in addition to the preceding discussion concerning knowledge of the Employer, it is observed that evidence adduced during the hearing demonstrated that the Decedent was not intelligently aware of a relationship between his employment and lung cancer at anytime during life. Moreover, evidence of knowledge of a relationship between the death of the Decedent and prior employment, on the part of the Decedent's widow, does not appear in the record at any point prior to the filing of a formal claim on October 4, 1974. (Claimant's Exhibit 11-2, and 11-3). 7/ Since the formal claim for benefits in this case was in fact filed within a one year period following the death of the Decedent, such filing must, for all purposes, be considered timely within the meaning of Section 13(a).

An additional basis for reaching the conclusion that the requirements of Section 13(a) have been met, lies in the fact that the Employer did not comply with the reporting requirements of Section 30(a) of the Act, 33 U.S.C. §930(a) until October 14, 1975. Thus, the period of limitations for the filing of both the disability and death claim would, under the provisions of Section 30(f), 33 U.S.C. §930(f), have been tolled until October 14, 1975.

6. Disability and Death were Causally Related to Employment and Benefits are Payable Under the Act

As a result of the provisions of Section 20(a) of the Act, 20 U.S.C. §920(a), the Claimant in the absence of substantial evidence to the contrary, enjoys an express

6/ It must be observed that an interpretation of Section 12 of the Act, which precludes recovery, must be carefully scrutinized. Shillington v. W. J. Jones & Son, Inc., 1 BRBS 191, BRB Nos. 74-128 and 74-128A (Nov. 13, 1974).

7/ The limitation provisions of Section 12 would have been tolled until October 4, 1974, in any event due to these circumstances.

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statutory presumption that his claim comes within the provisions of the Act. Such substantial evidence must be the kind of evidence a reasonable mind might accept as adequate to support a conclusion. McGrath v. Hughes, 264 F. 2d 314 (2d Cir. 1969). One must produce facts, not speculation, to overcome the presumption of compensability. Steele v. Adler, 269 F. Supp. 376 (D. D.C. 1967); Norat v. Universal Terminal & Stevedoring Corporation, 3 BRBS 151, BRB Nos. 75-162 and 75-162A (Jan. 12, 1976). Also, in applying the presumption described, consideration must be given to the well settled rule that the Act should be construed liberally in favor of a claimant, and that all doubts, including factual ones are to be resolved in his favor. Strachan Shipping Company v. Shea, 406 F. 2d 521 (5th Cir. 1969), cert. denied 395 U.S. 921 (1969); Vinson v. Einbinder, 307 F. 2d 387 (D.C. Cir. 1962).

Taking the foregoing rules into account, it must be concluded that the Respondents have not sustained the burden of proof required to overcome the presumption of compensability. In this regard the record reflects clear evidence that the Decedent was exposed to asbestos materials over a period of many years, and that he contracted asbestosis. This condition in turn was causally linked to the development of Decedent's fatal lung cancer. Dr. Sagall's testimony on the question of causal connection does not operate to disturb these findings, since it was clearly established that Dr. Sagall did not have sufficient data upon which to premise a diagnosis of asbestosis, which diagnosis, Dr. Sagall felt was a prerequisite to a diagnosis of cancer induced by asbestos material. He perceived a possibility of an asbestotic lung condition, but expressed doubt in this regard. Such doubts, as might be found here, would in any event be resolved in favor of the Claimant. Strachan Shipping Company v. Shea, supra; Vinson v. Einbinder, supra. However, in this case, the resolution of doubts in this manner is further justified by the fact that Dr. Sagall's opinion was, in fact, based upon incomplete information.

Accordingly, it is concluded that the Decedent experienced permanent total disability as a result of lung cancer precipitated by asbestosis, and that such disability commenced on June 29, 1973, and continued through October 10, 1973, the date of death, excepting those days during which the Decedent worked in July and August 1973, and which are not claimed as periods of permanent total disability. The estate of the Decedent is entitled to permanent total disability compensation under the provisions of Sections 8(a) and 19(f), 33 U.S.C. §§908(a) and 919(f) for this period; and to medical expenses provided by Section 7(a) of the Act, 33 U.S.C. §907(a).

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Since the Decedent's death was caused by lung cancer induced as a result of exposure to asbestos and the occupational disease of asbestosis, the Claimant is also entitled to death benefits under the provisions of Section 9 of the Act, 33 U.S.C. §909.

With respect to the question of medical benefits, it should be noted that Section 7(a) of the Act, and Section 702.402 of the Regulations relating to the Act, 20 C.F.R. §702.402, impose upon an employer the duty to provide medical care; but the manner by which an employer fulfills its duty is the concern of the employer. If the Decedent in this case made any contribution to a policy of insurance received by Employer herein to pay medical expense payments which the Employer is obligated to pay under the provisions of Section 7(a), then payments made under the provisions of such a policy cannot be considered as an offset, nor should the Employer be relieved of its obligation to pay same because Section 15(a) of the Act, 33 U.S.C. §915(a) invalidates any contract by an employee "to pay any portion of premium paid by his employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by this Act." On the other hand, if the Employer pays for and otherwise wholly provides for insurance to pay medical expense payments which he is obligated to pay under the Act, then payment of medical expenses under the terms of such a policy would necessarily inure to the Employer's benefit, and he would be entitled to an appropriate credit. Luker v. Ingalls Shipbuilding, 3 BRBS 25 (ALJ), 75-LHCA-334 (Sept. 29, 1975, Judge Capps), aff'd 3 BRBS 321, BRB Nos. 75-243 and 75-243A (March 19, 1976); Glover v. C & P Telephone Co., 3 BRBS 48 (ALJ), 74-DCWC-110 (Oct. 21, 1975, Judge Oliver).

Here there was no showing made that the Employer would be entitled to an offset equal to the amount of medical expenses paid under the terms of an appropriate policy of insurance coverage related to the Employer's obligations under the provisions of Section 7(a) of the Act.

7. Notice of Controversion Not Filed

Since benefits under the Act have not been paid in this case, it is necessary to consider whether there is entitlement to additional compensation under the provisions of Section 14(e) of the Act, 33 U.S.C. §914(e). Section 14(e) provides that when any installment of compensation payable without an award (under the provisions of Sections 14(a) and (b) of the Act, 33 U.S.C. §§914(a) and (b)) is not paid within fourteen

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days after it is due, ten percent of such installment shall be added as additional compensation unless the employer has filed a notice of controversion pursuant to Section 14(d), 33 U.S.C. §914(d), with the deputy commissioner, or unless the payment is excused by a showing that the payment could not be made as a result of conditions beyond the employer's control. Section 14(d) requires that such notice of controversion be filed with the deputy commissioner on or before the fourteenth day after the employer has knowledge of the alleged injury or death.

In this case the record clearly reflects that the notice of controversion with respect to the claim for disability compensation and with respect to the claim for death benefits, was not filed in accordance with Section 14(d).

In view of the failure of Respondents to present evidence showing compliance with Sections 14(d) and (e), the assessment of the additional compensation provided in Section 14(e) of the Act is mandatory with respect to both the claim for disability compensation and the claim for death benefits. Ryan v. McKie Company, 1 BRBS 221, BRB Nos. 74-160 and 74-160A (Dec. 10, 1974); McCabe v. Ball Builders, Inc., 1 BRBS 290, BRB No. 74-181 (Jan. 31, 1975); Rasmussen v. Geo. Control, Inc., 1 BRBS 378, BRB Nos. 74-204 and 74-204A (April 3, 1975); Nulty v. Halter Marine Fabricators, Inc., 1 BRBS 437, BRB No. 74-179 (May 2, 1975); Caramagna v. Campbell Machine, Inc., 1 BRBS 446, BRB No. 75-115 (May 2, 1975).

8. Average Weekly Wage

The parties supplied evidence for use in computing the Decedent's average wage. This evidence does not permit calculation in accordance with the provisions of Sections 10(a) or (b) of the Act, 33 U.S.C. §§910(a) and (b).

In this regard it is noted that Section 10(b) is clearly inapplicable, and that Section 10(a) is inapplicable because the Decedent's pattern of work did not fall into either a five or six-day week as is required by Section 10(a). 8/

8/ Counsel for the Claimant argued that the Decedent's average weekly wage should be computed under Section 10(a) as a six-day worker; however, counsel admitted that the Decedent worked only 260 days during the one year period preceding the onset of disability. (Claimant's Brief at 19).

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Moreover, a 5.275% raise in pay which the Decedent would have commenced receiving as of July 1, 1973, and which counsel for the Claimant seeks to include in calculations, could not be a factor in any computation based upon the provisions of Section 10(a).

For these reasons, it is necessary to consider the provisions of Section 10(c) of the Act, 33 U.S.C. §910(c), in arriving at a fair and reasonable approximation of the Decedent's probable future earning capacity as of June 29, 1973, the date of onset of disability. Toraiff v. Triple A Machine Organization, Inc., 1 BRBS 465, BRB No. 74-205 (May 14, 1975); Arnold v. United States Organization, Inc., 2 BRBS 18, BRB Nos. 74-201 and 74-201A (June 24, 1975).

In this regard, the record established that the Decedent earned a total of \$11,532.35 during the twelve-month period preceding the onset of disability. However, it was also brought out that as of July 1, 1973, he would have become entitled to a 5.275% increase in pay, or approximately \$608.33 per year. This evidence serves as a basis for concluding that the Decedent's anticipated average annual earnings would have been increased to the sum of \$12,140.68. Evidence of such wage earning potential is properly included in computation of an average weekly wage under the provisions of Section 10(c). Barber v. Tri-State Terminals, Inc., 3 BRBS 244, BRB Nos. 75-177 and 75-177A (Feb. 25, 1976).

In light of the provisions of Section 10(c), and fully considering all of the evidence relating to wages earned by the Decedent, it is concluded that the sum of \$233.47 is an accurate representation of the Decedent's average weekly wage, and that this amount would be a fair and equitable average weekly wage in this case. Hilton v. Todd Shipyards Corporation, 1 BRBS 159, BRB Nos. 74-135 and 74-135A (Oct. 25, 1974).

9. Application for Fees and Expenses

Counsel for the Claimant has filed an application for an attorney's fee in the amount of \$22,000 under the provisions of Section 28 of the Act, 33 U.S.C. §928. He also requests reimbursement in the amount of \$600.00 for the testimony of Dr. Lilis, as well as reimbursement for out-of-pocket expenses in the amount of \$303.80, under the provisions of Section 28. This application has been carefully considered together with objections filed by the Respondents.

Section 702.132 of the Regulations relating to the Act, 20 C.F.R. §702.132 provides that, "[a]ny fee approved shall be reasonably commensurate with the actual necessary work

performed, and shall take into account the capacity in which the representative has appeared, the amount of benefits involved, and the financial circumstances of the Claimant. No contract for a stipulated fee or for a fee on a contingent basis shall be recognized."

A reading of the application discloses that counsel for the Claimant is, in effect, requesting a contingent fee in this case. Contingent fees are specifically prohibited by the provisions of Section 702.132.

Counsel for the Claimant documents approximately seventy-two hours of professional service. He should be commended for the excellent manner in which he represented his client; however, it is felt that an attorney's fee of \$22,000, the amount requested, would be excessive in the context of this case. Taking the entire record into consideration, together with pertinent provisions of Section 702.132 of the Regulations, and Section 28 of the Act, it is concluded that an attorney's fee in the amount of \$6,000 would be reasonable.

Turning to the question of the witness fee claimed, Section 28(d) of the Act, 33 U.S.C. §928(d), provides that "[i]n cases where an attorney's fee is awarded against an employer or carrier there may be further assessed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the instance of the claimant." It is also determined that the testimony of Dr. Lilis was necessary, and that reimbursement of a \$600.00 fee for such testimony is reasonable. In addition, it is concluded that the basic attorney's fee should be supplemented by an award of reimbursable expenses in the amount of \$303.80. Bradshaw v. J. A. McCarthy, Inc., 3 BRBS 195, BRB Nos. 75-209, 75-209A, and 75-209B (Jan. 26, 1976).

10. The General Dynamics Corporation is
Liable for Benefits Payable Under the Act

In determining the question of liability for benefits payable under the provisions of the Act, it must be concluded that the Insurance Company of North America is not a responsible party, and that such responsibility rests on the General Dynamics Corporation. In Travelers Insurance Co. v. Cardillo, 225 F. 2d 137 (2nd Cir. 1955), cert. denied, 350 U.S. 913 (1955), the Court stated:

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The most difficult question presented by these cases is not that of a claimant's right to recover but rather that of determining upon whom shall devolve the burden of paying the tariff imposed by this socially desirable legislation. The nature of occupational diseases and the dearth of medical certainty with respect to the time that is required for them to develop and the performance and extent of the resultant injurious effects at different stages of the diseases' evolution, make it exceedingly difficult, if not practically impossible, to correlate the progression of the disease with specific points in time or specific industrial experiences.

* * *

Thus we conclude that the Congress intended that the employer during the last employment in which the Claimant was exposed to injurious stimuli, prior to the date upon which the Claimant became aware of the fact that he was suffering from an occupational disease arising naturally out of his employment, should be liable for the full amount of the award.

In Warren v. Jacksonville Shipyards, Inc., 1 BRBS 184, BRB No. 74-144 (Nov. 13, 1974), the Benefits Review Board held:

Where an employee is disabled by an occupational disease the responsible employer is the employer during the last period of exposure to injurious stimuli prior to the date on which the Claimant became aware of the fact that he was suffering from an occupational disease arising from employment. (Citing authority).

This result follows even if the last exposure involved only one day. Travelers Insurance Co. v. Cardillo, supra; McCabe v. Sun Shipbuilding & Dry Dock Co., 1 BRBS 509, BRB No. 74-193 and 74-193(i) (June 4, 1975).

The facts revealed are that the Decedent's occupation involved exposure to asbestos materials which in turn precipitated asbestosis and resultant lung cancer. It also appeared that the Decedent's last exposure to injurious stimuli, prior to the date of awareness, occurred after April 1, 1973, the date on which the General Dynamics

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Corporation became a self-insured employer. In view of the fact that General Dynamics was self-insured after April 1, 1973, it necessarily follows that the Insurance Company of North America is not liable, and that the General Dynamics Corporation is solely responsible for all benefits payable under the Act.

ORDER

IT IS THEREFORE ORDERED:

1. The General Dynamics Corporation shall subject to the provisions of the Act, pay to the estate of Joseph S. Sobolewski, compensation for permanent total disability at the rate of \$155.65 per week for the period beginning on June 29, 1973 and ending on October 10, 1973, except that no compensation shall be payable for July 26, 27, 30 and 31, 1973; and August 1 and 7, 1973.
2. Interest at the rate of six percent per annum shall be paid by the General Dynamics Corporation on all sums found herein as accrued permanent total disability compensation payments now due and owing, and such interest shall be paid to the estate of Joseph S. Sobolewski from the date each installment of compensation or portion thereof was due until finally paid.
3. The General Dynamics Corporation shall pay to the estate of Joseph S. Sobolewski, as additional compensation due pursuant to Section 14(e) of the Act, an amount equal to ten percent of each unpaid permanent total disability compensation installment due and not paid within fourteen days after becoming due.
4. The amount of compensation for permanent total disability due and payable from June 29, 1973, to October 10, 1973, shall be paid to the estate of Joseph S. Sobolewski in a lump sum together with interest and such additional compensation as is due and payable under the provisions of Section 14(e) of the Act.
5. The General Dynamics Corporation shall pay for, or reimburse the estate of Joseph S. Sobolewski for the reasonable cost of such necessary medical and surgical care and treatment as the Decedent may have required as a result of asbestosis and lung cancer contracted during the course of Decedent's employment on behalf of General Dynamics Corporation.

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6. The General Dynamics Corporation shall pay \$1,000.00 for reasonable funeral expenses incurred as a result of Joseph S. Sobolewski's death; or if said expenses have been otherwise paid, shall reimburse for said funeral expenses in the amount of \$1,000.00.

7. The General Dynamics Corporation shall pay compensation in the amount of \$116.73 per week to Mrs. Helen Sobolewski, widow of Joseph S. Sobolewski, subject to pertinent adjustment provisions set out in Section 10 of the Act, during her widowhood, and said compensation shall be payable in bi-weekly installments beginning as of the date of October 10, 1973.

8. Interest at the rate of six percent per annum shall be paid by the General Dynamics Corporation on all sums found herein as accrued widow's compensation benefits due and owing, and such interest shall be paid to Mrs. Helen Sobolewski from the date each installment of compensation or portion thereof was due until finally paid.

9. The General Dynamics Corporation shall pay to Mrs. Helen Sobolewski, as additional widow's compensation due pursuant to Section 14(e) of the Act, an amount equal to ten percent of each such unpaid compensation installment due and not paid within fourteen days after becoming due.

10. The amount of widow's compensation due and payable from October 10, 1973 to the date of this order shall be paid to Mrs. Helen Sobolewski in a lump sum together with interest and such additional compensation as is due and payable under the provisions of Section 14(e) of the Act.

11. The General Dynamics Corporation shall pay directly to Matthew Shafner, Esq., the lump sum of \$6,000.00 for legal services rendered.

12. The General Dynamics Corporation shall reimburse Matthew Shafner, Esq., in the amount of \$600.00, a necessary witness fee incurred in connection with the appearance of Dr. Ruth Lilis.

13. The General Dynamics Corporation shall reimburse Matthew Shafner, Esq., for expenses in the amount of \$303.80.

Louis Scalzo

LOUIS SCALZO

Administrative Law Judge

Dated: June 10, 1976
Washington, D. C.

1 OWCP JUN 16 1976

CERTIFICATE OF FILING AND SERVICE

I certify that on June 18, 1976 the foregoing Compensation Order was filed in the Office of the Deputy Commissioner, Boston District Office and a copy thereof was mailed on said date by certified mail to the parties and their representatives at the last known address of each as follows:

Helen Sobolewski, 10 Comstock Avenue, Uncasville, Connecticut 06382
Claimant

Matthew Shafner, Esq. P.O. Box Drawer 929, Groton, Connecticut 06340

General Dynamics Corporation, Eastern Point Road, Groton, Connecticut 06340
Insurance Carrier or Employer (if self-insured)

Douglas B. Johnson, Esq. 119 Church Street, New Haven, Connecticut 06510

Frank Daley, Esq., 205 Church Street, New Haven, Connecticut 06510

Robert F. Coleman, Inc., 1289 Chapel Street, New Haven, Connecticut 06510

Law Offices of Murphy & Beane, 160 State Street, Boston, Massachusetts 02109

Insurance Company of North America, P.O. Box 598, Hartford, Connecticut 06101

A copy was also mailed by regular mail to the following:

Judge Louis Scalzo, Office of Administrative Law
 Judges, U. S. Department of Labor, Washington, D.C. 20210

Associate Solicitor of Labor for Employee Benefits,
 U. S. Department of Labor, Suite N-2716, NDOL,
 Washington, D.C. 20210

Director, Office of Workers' Compensation Programs, (LHWCA)
 U. S. Department of Labor, Washington, D.C. 20211

Stanley C. Wollaston

STANLEY C. WOLLASTON

Deputy Commissioner

First Compensation District

U. S. Department of Labor

EMPLOYMENT STANDARDS ADMINISTRATION

Office of Workers' Compensation

Programs

J.F.K. Federal Bldg, Rm 1800

Boston, Massachusetts 02203

OALJ No: 76-LHCA-204

Case No: 1-15584

Carrier No: 131-162-4924A

EC#1:SCW:baj

ORIGINAL

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HELEN SOBOLEWSKI (Widow)

JOSEPH S. SOBOLEWSKI (Deceased)

Claimant,

-against-

GENERAL DYNAMICS CORPORATION

Employer

Self-Insured

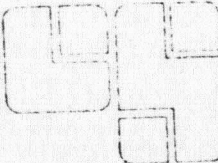
INSURANCE COMPANY OF NORTH AMERICA,

Carrier.
-----x: Case No.
: 76-LHCA204: OWCP NO.
: 1-15594

Deposition of RUTH LILAS, held at the
 offices of Environmental Sciences Laboratory,
 Mt. Sinai School of Medicine, 10 East 101st
 Street, New York, New York, on the 15th day
 of January, at 3:00 p.m., pursuant to Agreement,
 before Gale Spinner, a Notary Public of the
 State of New York.

Walter Holden, C.S.R.
 President

Esquire
 Reporting
 Company
 Inc



41 East 42 St
 New York
 10017
 New York
 212 687-6010

ORIGINAL

1

2 APPEARANCES:

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BY: STANLEY LEVY, ESQ.

22

and

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MELVIN FRIEDMAN, ESQ.

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IT IS HEREBY STIPULATED AND AGREED,
by and between the attorneys for the respective
parties herein, that filing and sealing be and
the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question, shall be reserved to the
time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
and sworn to before any officer authorized
to administer an oath, with the same force
and effect as if signed and sworn to before the
Court.

1
2 RUTH LILIS, called as a witness,
3 having been first duly sworn by the Notary
4 Public, testified as follows:

5 EXAMINATION

6 BY MR. SHAFNER:

7 Q Would you state your full name for the
8 record, Doctor.

9 A Ruth Lilis.

10 Q Where do you reside?

11 A 420 East 64th Street, New York, New York.

12 Q How are you employed?

13 A At the Mt. Sinai School of Medicine,
14 Division of Environmental Medicine. I am an Assistant
15 Professor.

16 Q Are you licensed to practice medicine in
17 this state?

18 A I am licensed to practice medicine in the
19 District of Columbia and in the process of endorsement
20 in New York State.

21 Q Would you tell us about your medical
22 education and background?

23 A I have been in the specialty of occupational
24 medicine for many years now. I have had my residency
25 training in this department and, as I said, I took my

1 license examination and I am eligible for the Board of
2 Preventive Medicine, Occupational Medicine.

3 Q Are you connected with the staffs of any
4 hospitals?

5 A With the Mt. Sinai Hospital.

6 Q That is here in New York City?

7 A Right.

8 Q Are you an author of any publications?

9 A Yes, I have published a number of papers
10 on occupational diseases.

11 Q Do they appear in medical journals?

12 A Only.

13 Q Are you involved in any research?

14 A Yes.

15 Q Can you tell us briefly the nature of that
16 research?

17 A My research is limited to occupational
18 diseases due to various mineral dusts and/or chemicals
19 in various industries. For more specific references
20 I could give you a list of my publications, if you so
21 desire.

22 Q Can you tell us some of the work that
23 the Environmental Sciences Laboratory performs that you
24 mentioned that you were a part of?

Lilis

1 A Yes; a good part of the work of this
2 laboratory has been related to asbestos-induced
3 diseases, workers exposed in various trades; insulation
4 workers, asbestos factory workers, brake-lining repair
5 workers and so forth.

6 Q Have you investigated any shipyard dusts?

7 A Yes, we have had clinical field examinations
8 of some 200 workers at the General Electric Boat Company.

9 Q When was that held?

10 A That was -- I forgot the date.

11 Q This past summer?

12 A Yes, as a matter of fact, July.

13 Q As a part of your studies here at the
14 laboratory, can you give us any idea of how many people
15 you have examined for asbestos-related diseases?

16 A Most of the workers we examined were examined
17 for asbestos-related diseases, just to find out if there
18 is any asbestos-related disease in them. The major
19 part, I would say eighty per cent of those examined
20 were asbestos-exposed.

21 Q Overall though, not just at the General
22 Electric Boat Company, how many people have you
23 examined here at the laboratory for asbestos diseases?

24 A Personally or --
25

1

Q For the whole laboratory.

2

A Thousands of people.

3

Q Over how many years has this been going

4

on now?

5

A That has been going on since 1963.

6

Q Is this laboratory funded by any

7

governmental agency?

8

A The laboratory is funded by the

9

National Institute of Environmental Health Sciences,

10

which is one of the National Institutes of Health.

11

The major part of the funding is coming from the

12

National Institute of Environmental Health

13

Sciences.

14

Q Can you tell us, Doctor, what other

15

diseases are related to asbestos-exposure?

16

A Asbestos exposure produces specific

17

effects on the lungs which has to do with scarring of

18

the lungs and pleura; the tissues of the lungs and also

19

changes of the linings of the lungs. The pleura,

20

which may express itself as thickening of the pleura

21

or calcification of the pleura. These changes are

22

usually defined as asbestosis; the fibrotic changes

23

of the lungs due to asbestos dust.

24

Q There are other diseases related to

25

Lilis

1

2 asbestos exposure, is that correct?

3

4 A Asbestos has been established as giving
5 rise to a sharp increase in the incidence of cancer
6 of the lungs in workers exposed. Also, mesothelioma
7 of the pleura and/or peritoneum. Mesothelioma of
8 the pleura and peritoneum are tumors, a form of cancer,
9 which is almost specific for asbestos exposure.

10 Q Are there other diseases which may come
11 from asbestos exposure as well?

12 A Yes, there are some complications,
13 like heart failure which may be due to very advanced
14 changes, fibrotic changes in the lungs which is
15 usually called cor pulmonale.

16 Q Referring to asbestosis, will you tell
17 us what the particular findings and symptoms you
18 would expect in order to establish a diagnosis of
19 asbestosis?

20 A The most characteristic change you get
21 in a patient with asbestosis are the X-ray changes.
22 These are small irregular opacities mainly to be found
23 in the lower and middle lung field, and also pleura
24 changes, as I mentioned before; pleura thickening
25 and/or calcification. This is, as far as X-ray changes
are concerned.

1 On physical examination you may get
2 findings such as rales over the lung when listening
3 to the breathing in the lungs, clubbing of the fingers.
4 In various cases you may get cyanosis which is a blue
5 discoloration of the skin and mucous membranes due
6 to excessive concentration of reduced hemoglobin in the
7 blood. This is only found in advanced cases, however.
8

9 As far as the symptoms a person may
10 complain of, the main symptom is shortness of breath.
11 There may be some cough, usually non-productive and
12 that would be most of them.

13 Q Is there any relationship between
14 asbestosis and lung cancer?

15 A I think I mentioned before that it has
16 been found through numerous studies conducted on
17 asbestos-exposed workers in various trades and these
18 studies have been conducted in various countries. They,
19 as a matter of fact, started in Great Britain and
20 go back to 1935.

21 The incidence of cases of cancer of the
22 lung in asbestos workers is significantly higher
23 than in the general population, taking into account
24 the age and the smoking habits, et cetera.

25 Q Does smoking play a role in the development

1 of lung cancer in asbestos workers?

2 A Well, it is well-known that smoking
3 plays a very important role in the development of lung
4 cancer in the general population, and it does so in
5 asbestos-exposed workers as well.

6 In asbestos-exposed workers who are
7 also smokers, the incidence of cancer of the lung
8 is higher than it is in those who are not smoking.
9 That has led to the hypothesis that asbestos dust
10 and cigarette smoke act as multiple factors leading
11 to the generation of cancer.

12 Q Can you give us any idea what the rate of
13 increase is from the two factors involved? That is,
14 asbestos-exposure and cigarette smoking?

15 A From asbestos exposure the increase of
16 incidence of lung cancer is given in different
17 studies by different authors as being between four-fold
18 and seven to eight-fold as compared to that in the
19 general population, sex and age taken into account.

20 In asbestos workers who are smokers
21 the incidence is even higher. I couldn't give you a
22 precise figure, but that has been well-documented.

23 Q Is it possible to have, for a person
24 to develop lung --
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A Excuse me. I want to make one more statement: mesothelioma, which I mentioned before, which I said is specific for asbestosis is in no way related to smoking. I mean, people who have never smoked may develop it. Mesothelioma may develop when exposed to asbestos.

Q Can a person develop cancer from the exposure to asbestos without first developing asbestosis?

A Asbestosis, as I mentioned before, is a specific kind of fibrotic scarring of the lung. From the moment the asbestos fibers penetrate into the tissues of the lung, until changes become visible on a chest X-ray, there is an interval where the fibrotic lesion develops during which for various reasons there is nothing to do. It is not yet seen on the X-rays because it takes a fair amount of such fibrotic changes in order to give visible changes in the X-ray. Situations have been well-documented when asbestos workers who have been exposed for a long time die from various causes, not only from lung cancer, and an autopsy is made and at the microscopic examination of the lung tissue, specific fibrotic changes characteristic of asbestosis might be found, even though there is no X-ray changes reported

1 during their lifetime.

2 I hope I answered your question.

3 Q Is it easier to make the evaluation
4 that the lung cancer is related to asbestos when there is
5 asbestosis?

6 A I would say for obvious reasons, yes.

7 Q In connection with the late Mr. Sobolewski,
8 did you examine various medical records on his behalf?

9 A Yes. That is the only thing I examined.
10 I never had the opportunity to examine Mr. Sobolewski.

11 Q In that connection, could you tell us
12 which records it was that you examined?

13 A I had the hospital records related to
14 two of his hospital admissions.

15 Q Were those in July and October of 1973 at
16 Lawrence and Memorial Hospital in New London, Connecticut?

17 A Yes, July 1973 was the last one. I mean,
18 he died in the last admission.

19 Q Did you have the Lawrence and Memorial
20 Hospital records of July 1, 1973?

21 A Yes.

22 Q That was five pages?

23 A Yes, I have that.

24 Q Did you have the Lawrence and Memorial
25

Lilis

1 records of October 7, 1973, consisting of the admission
2 sheet and summary?

3 A Right.

4 Q That being Exhibit 2.

5 Did you have a certificate of death for
6 Mr. Sobolewski?

7 A I do not recall a certificate of death.

8 Q Did you have the report of a Dr. Philip
9 Wade, being Exhibit 6?

10 A Yes, dated August 14, 1974.

11 Q Did you have the electric
12 company's records, consisting of a chest survey,
13 medical records, pulmonary function test -- I have
14 to go through the dates on these because they are
15 important -- you have Exhibit 5 of February 4, 1971,
16 the chest survey?

17 A Yes. I didn't pay much attention to
18 that because it wasn't important for what I was
19 looking for.

20 Q Did you have the pulmonary function test
21 which is Exhibit 5-4?

22 A Yes.

23 Q Did you have the chest survey of
24 February 8, 1972, being Exhibit 5-5?

25

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A Yes.

2

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Q Did you also examine the radiology report,
dated February 18, 1972, being Exhibit 5-6?

4

A Yes.

5

6

Q Also the radiology report d rch 4,
1972?

7

A Yes.

8

9

Q That being Exhibit 5-7?

9

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A Yes.

10

11

Q Did you have the various physical
examination records, being Exhibit 5-8 through 5-12,
including the questionnaire and so forth?

12

13

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A As I said, I just want to point out
that they were questionnaires, not so much of a physical
examination. Yes, there was some, very short.

15

16

17

Q At least it is entitled "Physical
Examination."

18

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A Yes, there was.

19

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Q That was part of the records you went through?

20

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A Yes.

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Q Did you also have the chest survey dated
January 19, 1973, the final one taken at the
company, being Exhibit 5-13?

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A Yes.

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Q Doctor, in addition to these reports that you have mentioned here, did you examine any X-ray film itself --

A Yes.

Q -- as opposed to the records?

A Yes, dated July 1, 1973.

Q That was the one from Lawrence and Memorial Hospital where he was admitted?

A That is right.

Q Could you tell us what you found on that film?

A Yes, on that film there were small irregular opacities in the lower and middle right-lung field, and these were consistent with the classification of S-1 over 1, according to the International Classification of small opacities of radiographs of pneumoconioses.

Q For the layman, so he can understand what that means, can you please explain that?

A What the international classification is?

Q Yes, of S-1 over 1.

A Yes, the International Classification of small opacities due to inhalation of mineral dust has been agreed upon many years ago. It is in effect all over the world in order to insure that the same

1 criterion are used by physicians who have to evaluate
2 cases of suspected diseases due to dust inhalation.

3 Now, the small opacities to be found on
4 the X-rays of people so exposed are either irregular,
5 like those due to asbestos or rounded like those
6 due to silica. We are here talking about small irregular
7 opacities due to asbestosis.

8 The S-1 over 1 refers to the size of
9 those opacities, which is small, and 1 over 1 refers to
10 the profusion of the asbestotic opacities which is slight
11 to moderate.

12 Q What is the significance of that finding
13 in Mr. Sobolewski's case?

14 A This finding substantiates a diagnosis
15 of asbestosis with the one, as I was going to mention
16 now, which had to do with significant thickening of
17 the right parietal and inter-lobal pleura which
18 is also a characteristic of asbestos-induced diseases.

19 I think I mentioned that I only considered
20 the changes to be seen on the right lung because the
21 chest X-ray we had available was one taken while the
22 tumor on the left lung would have made any evaluation
23 of the left lung of no further use.

24 Q In also looking at the X-ray reports,

25

1 did you notice any other finding of significance in
2 Mr. Sobolewski's case?

3 A Yes.

4 Q What were those?

5 A On the report dated 10/14/68 --

6 Q Is that the hospital report?

7 A From the boat company and I think it is
8 a Dr. Fagan. There is a statement there.

9 Should I quote it?

10 Q Sure.

11 A "There is some slight increase in the lung
12 markings at the base which may represent some minimal
13 degree of pulmonary fibrosis."

14 Then, on 3/9/72 there is a statement:

15 "Although this problem represents some
16 type of pulmonary fibrosis, other forms of" -- should
17 I go on?

18 Q That is one of the General Boat records?

19 A Yes, that is Exhibit 5-7.

20 I am sorry. There was one before that,
21 dated 2/18/72.

22 Q What did that show, Doctor?

23 A That showed infiltration at both bases
24 and in the later -- I cannot read it here.

25

Lilis

1 "Infiltration present in the left upper
2 lobe."

3 That is also identical with the other one.

4 Q Is there any significance, Doctor, in the
5 infiltration being in both bases?

6 A Yes.

7 Q What is that?

8 A Because asbestosis, like all of the
9 other diseases due to dust inhalation, in just about
10 every case develop in both lungs at the same time.

11 Q Were there other X-rays?

12 A Yes, I would like to make a final
13 assessment of those three X-ray reports that started
14 in '68. There was mention of slight pulmonary fibrosis
15 in Mr. Sobolewski in '68.

16 Q Doctor, would you go back to February 8,
17 1972, the chest survey, Exhibit 5-5?

18 A Yes.

19 Q In it it states that there was a question
20 of pulmonary lesion.

21 Can you tell us what the significance
22 of a pulmonary lesion is?

23 A This chest X-ray indicates 14 types
24 of abnormalities. The possible abnormality which has
25

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2 to be checked by the examining physician, which was
3 found to be present in this case.--

4

On this report, 2/18 you said?

5

Q There is also a prior one on 2/8/72.

6

A On February 8, '72 which is the same

7

statement, that there are 14 possibilities. A physician

8

has to check what abnormalities were found. On this

9

report there is a checkmark on the question of pulmonary

10

lesion and the request for a PA and lateral in one week.

11

That means another chest X-ray.

12

PA means posterior and anterior.

13

My interpretation -- I can't be sure

14

what was meant. I believe there was some suspicion

15

that something was abnormal and they wanted to check

16

again.

17

Q Doctor, could we go to the chest survey

18

on January 19, 1973, Exhibit 5-13. An item is checked

19

off on there, pulmonary lesions. Can you tell us

20

the significance of that?

21

A Well, it is obvious that the addition

22

of this "s" means that there was more than one

23

pulmonary lesion.

24

Q What area of the lung are they speaking of?

25

A They mention here the possibility of

Lilis

1 asbestos. There is a checkmark on the point 3,
2 which says, partial scarring, which means that --
3 I mean, whoever saw that X-ray saw the same changes
4 that I saw on this.

5 Q They saw the same changes that you saw
6 on a particular X-ray?

7 A The only X-ray I had to examine was
8 dated July 1, 1973.

9 Q You examined the X-ray film itself,
10 not just the record?

11 A Yes.

12 Q The pleura scarring, is that a synonym
13 for pleura calcification?

14 A Maybe thickening. We have not found
15 calcification.

16 Q Would there be any way of telling
17 whether this finding of probably asbestos
18 would be incorrect?

19 A I didn't understand your question.

20 Q Doctor, I did not word it very well.
21 Is there any way of telling whether this suggestion
22 now of probably asbestosis on the January 19, 1973
23 chest survey is incorrect, without examining the X-ray
24 film itself?

25

1
2 A How could I possibly? I cannot make
3 a judgment. Nobody could evaluate a physician's
4 reading of an X-ray without reading it.

5 Q Without reading the X-ray?

6 A Right.

7 Q That finding --

8 A I would never do such a thing. I do
9 not expect anybody else to do that either.

10 Q Doctor, that finding that was made on
11 this chest X-ray in January of 1973 is consistent with
12 your reading of the July 1973 X-ray film itself?

13 A Yes, for the right lung because at the
14 time, July '73 he already had marked changes on the
15 left side. I only restricted myself to the right side.

16 Q In trying to determine whether any
17 individual has asbestosis or not, is it important
18 to look at the X-ray film itself?

19 A The most important thing is to look at
20 the X-ray. It's the main item in the diagnosis. You
21 cannot make a diagnosis of asbestosis without X-ray
22 changes.

23 Q Doctor, were there any other findings
24 that you found in the medical records, either signs
25 or symptoms on behalf of Mr. Sobolewski that you found

1
2 were of significance?

3 A Well, going over the hospital record
4 of October '73 -- no, excuse me, of July '73, there
5 is a mention, reading from the physical examination
6 which says that there were rales at the right base.

7 Q Would you be referring to the second
8 paragraph of the summary, which is Exhibit 1-5?

9 A Rales at the base, that is it, yes.

10 Q Why is that significant, Doctor?

11 A That is significant because, as I think
12 I mentioned before, rales at the base of the lungs
13 are one of the most important findings, physical
14 findings in asbestos-related fibrosis of the lungs.
15 In this particular case it is even more important
16 because the man had developed a tumor in his left lung.
17 I would expect to hear many abnormal sounds when
18 examining the left lung because there was a tumor
19 in the left lung, but if his tumor was the only lung
20 disease he had, I wouldn't expect to hear rales on
21 the right base.

22 Another important thing on this hospital
23 report was that there was an obstruction of the left
24 upper lobe bronchus where the tumor probably started.

25 Q Doctor, looking at that same exhibit and

1
2 especially the tissue report --

3 A I was going to mention that.

4 Q -- which is on Exhibit 1-3, there is
5 no mention of any asbestos fibers being found. Is
6 that of significance?

7 A What are you referring to?

8 Q The one which has a Biopsy of Carina and the
9 bronchial washings.

10 A Yes. I did not expect to find asbestos
11 fibers in the mucosa of the bronchus. They are found in
12 the tissues of the lung, not the lining of the bronchus.

13 Q Doctor, from your examination of these
14 hospital records, can you conclude whether or not they
15 were even looking for asbestos fibers in this man?

16 A No, I couldn't conclude whether they were
17 or were not looking for it. As a matter of fact, the
18 man came in with a far-advanced disease and they were
19 trying to take care of him as best they could.

20 Q One other record you examined, Doctor --

21 A They didn't do a lung biopsy and I wouldn't
22 blame them for that because it wouldn't have much
23 relevancy for him.

24 Q It would not have changed the course of
25 treatment to him?

Lilis

1

A No.

2

Q One of the other medical records that

3

you examined was a pulmonary function test.

4

A That is right.

5

Q Do you have that handy?

6

A Yes, in front of me.

7

Q That is Exhibit 5-4 and it is dated

8

January 9, 1972.

9

A That is right.

10

Q Could you tell us, first of all, what

11

a pulmonary function test is and how it is administered
and what its significance is?

12

13

A First I would start by saying that it is
pulmonary function tests, and I would add the S to
your question. What I want to point out is that
there are more than one. There are many tests which
are used for different reasons.

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Basically what we see on this report is
measurement of the forced vital capacity and a measurement
of the forced expiratory volume per second.

The forced vital capacity as you see
looking at the right column of figures is 2900 CC's
observed. This was observed on January 9, 1972.

This was compared to the predicted value for forced

1

2 vital capacity which was 3780 CC's. So that the
3 observed forced vital capacity was significantly lower
4 than the predicted one.

5

Q What does the predicted value mean?
6 How do they determine it?

7

A The predicted value is determined according
8 to the age, height and weight for male and female,
9 and how that was done -- it was done by studies of
10 large normal populations.

11

Q What was done for Mr. Sobolewski in
12 this test?

13

A There are papers where you go and
14 look at the height, weight and age. Then you measure
15 it on the patient and you compare it to the predicted
16 one. If it is normal it will be very close to the
17 predicted one. If it is less than normal, then you
18 have what was found in this case.

19

Should I add maybe what it means?

20

Q Yes.

21

A It means the amount of air a person is
22 able to move in and out of his lungs through a very deep
23 inspiration, and then, as completely as possible
24 expiration. Now, the second measurement which is

25

Lilis

1 forced expiratory volume per second measures the speed
2 with which a person moves the air through his airways
3 or her airways. That is why it is expressed by
4 per second.

5 From looking at Mr. Sobolewski's report
6 of January 9, 1972, you can see that it was almost
7 identical with the predicted one. So, there was no
8 change in his forced expiratory volume per second, but
9 there was a significant reduction in his forced vital
10 capacity. In asbestosis, the characteristic change
11 you get with pulmonary function testing is reduction
12 of forced vital capacity, which is called restrictive
13 pulmonary disfunction.

14 Q What is the other type of impairment
15 called?

16 A The other type of impairment which has to
17 do with the person not being able to move his air in
18 and especially out as fast as possible is related
19 with bronchitis and emphysema.

20 Q So that Mr. Sobolewski's restricted
21 impairment was due to his asbestos exposure?

22 MR. BEANE: Objection.

23 Q Can you tell us what it was caused by?

24 A The most probable cause was asbestos
25

1
2 fibrosis of his lungs.

3 Q Based upon all of these X-ray changes
4 that you have described, the symptoms and signs that
5 you found in the medical records and the impairment
6 in his pulmonary function testing, did you arrive at
7 a conclusion?

8 MR. BEANE: Objection. I might note
9 on the record that I do not understand the
10 question.

11 Q Do you understand the question, Dr. Lilis?

12 A I will ask you a question to make sure
13 I understand the question: Are you asking me about
14 the conclusion as related to his asbestos-induced
15 disease?

16 Q Yes, or diseases.

17 A Okay. The main thing, the X-ray, the
18 chest X-ray, the mention of rales heard on the
19 right base of his lung and the reduced forced vital
20 capacity all indicate that there was asbestosis present.

21 Does that answer your question?

22 Q Yes.

23 Can you tell us what that asbestosis
24 was caused by, given his occupation and his medical
25 records and other findings that you have made about

1 this case?

2 MR. BEANE: Objection.

3 Well, the answer is that asbestosis is
4 always only due to asbestos inhalation.

5 Q Did you, I think you recall describing
6 a relationship between asbestos exposure
7 and lung cancer, can you tell us what the relationship
8 is between Mr. Sobolewski's asbestos exposure and his
9 lung cancer, or did you reach a conclusion concerning
10 that relationship?

11 A Yes.

12 Q Can you tell us what that was?

13 A Since the development of lung cancer in
14 asbestos-exposed workers is much more frequent than
15 in the general population, and since Mr. Sobolewski
16 had previous X-ray changes and clinical signs of
17 asbestosis and pleural changes, I would say
18 there was a high probability that his lung cancer
19 would be related to his previous asbestos exposure.

20 Q Could you state that with a reasonable
21 degree of medical certainty?

22 MR. BEANE: Objection.

23 A Yes.

24 MR. SHAFNER: Those are all the questions

25

1 I have, Dr. Lilis.

2 EXAMINATION

3 BY MR. BEANE:

4 Q Doctor, I think you told us that the
5 tumor which was described was in the left lung?

6 A I said it was on the left lung,
7 bronchus or lung, yes.

8 Q Referring to the X-ray of February 18,
9 1972, there is a notation there of an infiltration of the
10 left upper lobe. Is that significant in connection
11 with the ultimate diagnosis of the tumor?

12 A I think it may be.

13 Q Do you think that that finding of
14 February 18, 1972 represented the tumor?

15 A I cannot tell you for sure. I haven't
16 seen that X-ray. It may be. That is the only thing
17 I would think it is.

18 Q You think what they are describing there
19 might ultimately --

20 A I couldn't say with any degree of
21 certainty.

22 Q As a matter of fact, even with seeing
23 the X-rays, they may not help because it changes, is
24 that right?
25

1 Lilis

2 A It may or it may not.

3 Q In any event, Doctor, is it fair to say
4 that the tumor was undoubtedly present prior to July 1,
5 1973 when it was first diagnosed?

6 A I'm not sure what you mean.

7 Q It certainly wasn't a matter of weeks,
8 was it?

9 A Probably not, but it may have been a
10 matter of months.

11 Q It may have been in terms of six months
12 to a year?

13 A I would say so, yes.

14 Q Did you have an opportunity to see the
15 X-ray report that was taken on January of 1973?

16 A Yes.

17 Q Is there something on there that was
18 described as a questionable tumor?

19 A I don't -- well, there is mention of
20 pleura scarring on number three. There is at twelve.
21 Pulmonary lesion on the 13th. Probable asbestosis now.
22 Further study. There is a question mark and I think
23 it says tumor after that and then I cannot read it.

24 Is that what you are referring to?

25 Then there is a statement that said that the man felt

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Lilis

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all right and never did go to a doctor.

3

MR. BEANE: Off the record.

4

(Discussion off the record.)

5

BY MR. BEANE:

6

Q It seems that the tumor was probably in

7

existence as of January 1973. Would you agree with

8

that?

9

A No question about it, yes.

10

Q Doctor, is a tumor of that nature, is it

11

irreversible, assuming it isn't --

12

A Are you asking me if you can operate?

13

Q Assuming that it cannot be operated on.

14

A I do not assume anything because some

15

can be operated on.

16

Q Let me say this: Doctor, assuming it is

17

not treated, is this tumor of the lung a progressive

18

disease?

19

A Sure, but a lot of them are treated

20

nowadays.

21

Q Sometimes they are subject to surgery.

22

A That is right.

23

Q But, surgery certainly was not possible

24

in this case in July of 1973, was it?

25

Lilis

1 A In July, but it may have been possible
2 before.

3 Q I understand that. But, in July of
4 1973 it is apparent that it was too late?

5 A There were metastatic lymph nodes in the
6 left axilla.

7 Q But, at some prior time surgery may have
8 been possible, is that correct?

9 A Yes or no. It all depends where the
10 tumor started, how central it is. If it is involved
11 in larger or more vital organs, it would all depend.
12 I cannot make a judgment since I do not know more than
13 I do.

14 Q On the information we have available
15 to us, nobody can tell whether that was operative
16 or not as of January 1973?

17 A As of January?

18 Q Yes.

19 A Well, I would say nobody can tell for sure
20 but we can tell for sure that it had more of a probability
21 of being operable in January of '73 than it had in July
22 of '73.

23 Q In any event, in the absence of surgery,
24 what was there in January of 1973 was progressive and
25

1
2 irreversible, is that correct?

3 A No, there are other methods of therapy
4 available in our days, and in many cases they can be
5 effective; like radiotherapy and chemotherapy.

6 Q Let me ask you, in the absence of
7 treatment, let me say that.

8 A I am not used to judging in the absence of
9 treatment. I mean, my way of reasoning is not in the
10 absence of treatment because we have to treat whatever
11 we can.

12 Q I understand, but this man had no
13 treatment from January to July. In the absence of
14 any treatment, certainly I would expect the disease
15 to progress --

16 A Sure, I don't really --

17 Q -- to exactly what happened, in this
18 case, in October he died.

19 A Yes.

20 Q Doctor, when this man was seen in January,
21 he apparently was advised to consult a doctor, but he
22 said he felt well, is that correct?

23 A That is what is written on the paper. I
24 don't know what the situation was. You will have to
25 ask those involved if you want to find out.

1 Q That is the information that was given
2 to you, in any event.

3 A This is what is written on the paper and
4 I only take it for what it is worth.

5 Q Doctor, when he was admitted to the
6 hospital in July he was admitted not because of any
7 complaint of shortness of breath, but a lump under
8 the arm, is that correct?

9 A That is what it says.

10 Q As a matter of fact, there is nothing
11 in there that indicates that he had a shortness of
12 breath, is there?

13 A No, I don't think so.

14 Q His complaint was this lump.

15 A May I say something?

16 Q Certainly.

17 A When somebody gets a lump in his groin or
18 his arm, his attention is focused on that problem and
19 he wouldn't even notice shortness of breath. That is
20 how human beings function. We have seen that
21 very often. You forget about a chronic complaint
22 you have had for years because there is a major problem
23 which came up the day before yesterday.

24 Q I understand, but is there anything in
25

1
2 the history or in the records you have seen that suggest
3 this man ever had or suffered this shortness of breath?

4 A No.

5 Q Doctor, one of the diagnostic findings
6 is clubbing of the fingers, is that correct?

7 A Yes.

8 Q And clubbing of the fingers, that is
9 not the diagnosis as of the type of disease, but it
10 does indicate long-term lung disease?

11 A It may indicate that.

12 Q As a matter of fact, there is no reference
13 here to the man having clubbing of the fingers, is there?

14 A No, but you do not get it in more than
15 a percentage of cases with asbestos diseases or any
16 other disease. It only affects a percentage, something
17 like twenty, maybe twenty-five per cent or so.

18 Q Clubbing of the fingers is thought to have
19 something to do with the reduced peripheral surface,
20 is that correct?

21 A Yes, but you also find it in other cases.
22 Nobody really knows.

23 Q Doctor, you stated to us, I think, if I
24 took this down correctly, I think you gave us about
25 six diagnostic features of the disease. I think the

Lilis

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2 first one was the thickening found in the pleura
3 and scarring in the lung. Then you told us of
4 the finding of rales. Then you indicated that you
5 might find clubbing of the fingers. Then you indicated
6 cyanosis. Then you indicated --

7

A I mentioned for cyanosis that that would
8 only be an indication in a very advanced case.

9

Q You also indicated the symptom of shortness
10 of breath?

11

A Right.

12

Q You indicated that there could be a
13 cough, but that was usually a non-productive cough.

14

A Yes.

15

Q By non-productive you mean there was no
16 phlem.

17

A Correct.

18

Q In this case there was no cough, no
19 shortness of breath, no suggestion that he had cyanosis
20 and no suggestion of clubbing of the fingers, but at
21 one time, I think that was in October when he was
22 admitted to the hospital, there was a finding of
23 rales in the right lung. Is that the first time he
24 had any rales?

25

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2

A I only saw two hospital reports. One
3 you just mentioned and the other one was the final one,
4 when he died.

5

6

Q Am I right that it was October that he
found the rales or was it July?

7

8

A During his first hospital admission.
That means that was July.

9

10

11

12

Q Doctor, I think you indicated that there
were some findings apparent in the '68 X-rays that you
believe would be attributable to the exposure to asbestos,
is that correct?

13

14

15

16

A Well, I took the second of the X-rays.
There were at least three reports where there was
mention of some fibrosis, possible asbestosis. The
first one was '68, yes.

17

18

19

Q Then in '71 there was one that seemed
to be normal. Would that suggest that the '68 might
be --

20

21

22

23

24

25

A That they have had to do with the X-rays
taken. One might have been more penetrating. The
others didn't show up. It could also be a different
person reading the X-ray. I do not know, but at
least there are three reports where it was mentioned.

Lilis

1
2 Q In other words, you think these X-ray
3 changes in your opinion, with the other facts that
4 you know about this case, indicate that this man probably
5 had some degree of asbestosis in 1968?

6 A I didn't specify a point in time.
7 I couldn't do that because I don't know what the '68
8 X-rays would have shown. '67, '66, there is one '66,
9 I think. I wouldn't specify when it really started.
10 I would say the first report which would catch my
11 attention would be the '68 report.

12 Q In other words, you think that, as of
13 1968 he had, in your opinion findings that were
14 attributable to asbestosis?

15 A There was some indication.

16 Q I think as of 1968 at least he did show
17 some evidence of that?

18 A May I go back to one of your previous
19 statements?

20 Q Yes.

21 A I would emphasize again that clubbing
22 and cyanosis are findings in advanced cases of asbestosis.
23 Nobody would ever expect him to show clubbing.

24 Q Would it be fair to say that this degree
25 of asbestosis was of a moderate form?

1

2 A Moderate, yes.

3 Q Apart from the complication of lung
4 cancer, you would not anticipate this man had symptoms,
5 is that true?

6 A That is correct. Many people with this
7 kind of fibrosis of the lung go on working for many
8 years.

9 Q As a matter of fact, this man continued
10 to work, he even went back to work after that first
11 hospitalization for a short period of time. So, I
12 guess the conclusion is that he must have felt fairly
13 well as far as the asbestosis is concerned, is that
14 correct? The other problem was something else again.

15 MR. SHAFNER: I object. The Doctor would
16 have no way of knowing.

17 A I have no way of knowing, but I may tell
18 you that people react very differently to the same
19 problems. Someone has a headache, he is disabled for
20 three days. Another man has a severe disease but he
21 keeps on working for years. There is a difference.
22 I couldn't make any statement about that.

23 Q Doctor, would you agree that the lung
24 cancer is some kind of a response to the asbestos
25 bodies that were introduced into the lung?

1 Lilis

2 A Asbestos bodies, no. I do not think --
3 do you want this on the record?

4 Q Go right ahead.

5 A Asbestos bodies in our medical language
6 has a very specific medical meaning. I do not know
7 if you are referring to that. Maybe you are referring
8 to asbestos fibers.

9 Q Let's start with the fibers. The fibers
10 are introduced into the lung?

11 A Right.

12 Q These presumably cause some kind of
13 irritation?

14 A More than that.

15 Q I understand.

16 A Fibrosis. I mean, the scarring.

17 Q Scarring as a result of --

18 A Fibers.

19 Q It is not really understood why exactly
20 this goes on to become a carcinoma of the lung, is
21 that correct?

22 A Yes.

23 Q In any event, it is some kind of response
24 to the initial fibers in the lung?

25 A I don't understand what you mean by "initi

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Q At some point, after some people are exposed to asbestos they develop carcinoma?

A Some of them. Not all of them, only one out of five I would say.

Q Some percentage of them develop --

A One out of five die of cancer.

Q Is there a long period between the exposure and the formation of the cancer?

A That is a very good question. There is usually between onset of exposure until the let's say clinical diagnosis there may be ten, fifteen years, but the longer you go the more you see.

Q What you are saying is that there would probably be a ten-year period between the beginning of the exposure and the diagnosis of a tumor and in some cases it may be many more years?

A Right. In this case I think the exposure was eighteen years. So, it couldn't be more than that.

Q In your opinion the tumor which I think was in existence at least as of January of 1973 and possibly as early as February of '72 would be due to exposure, prior exposure?

A Yes.

Lilis

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MR. BEANE: I have no further questions.

2

EXAMINATION

3

BY MR. JOHNSON:

4

Q If the exposure continued after '72,
that would also add to the final result which was
obtained by cancer in the lung by July of '73, would
it not?

8

A Would you explain that?

9

Q Withdraw the question.

10

The first time it was diagnosed as
cancer was on his hospital admission in '73, is
that correct?

13

A Yes.

14

Q As I understand it, asbestosis is
well-recognized as an occupational disease?

16

A Yes.

17

Q Is it due to the inhalation over a period
of time?

19

A Right.

20

Q If that period of time continued after
'72, that exposure would also be relevant to the final
death or it would also contribute towards the disease,
is that correct? There is no point where there is
no further attributing time where the man is exposed,

25

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2 is there? In other words, if a man is exposed in '73,
3 again in '74, again in '75 and '76, it is all productive
4 of irritation of the lungs and the final breakdown of
5 asbestosis, is that true?

6 A The exposure -- if you are referring
7 to asbestosis the man may have had in '72 and '73,
8 to what degree this is relevant or contributes to his
9 final illness, I would say no significant degree.

10 Q Let me ask you this: Assuming that
11 you diagnosed a condition of asbestosis in a person
12 in 1968 or '70, would you have that person work again
13 at asbestos?

14 A I wouldn't, but many people --

15 Q Why would you not?

16 A Many people do.

17 Q I understand. Why wouldn't you?

18 A Most of them do.

19 Q Why wouldn't you?

20 A Why?

21 Q Yes, if it had no effect?

22 A Because I wouldn't want the man to get
23 more asbestos fibers into his body than he already had.

24 Q If he had asbestosis, more fibers might
25 be introduced --

Lilis

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A There is no doubt that there were more fibers introduced. These are not relevant to the disease whatever disease.

Q When did the exposure stop?

A Whenever it stopped.

Q This man continued to work up to 1973.

A I don't deny that if you say so.

Let me try to put the question on other terms. If you have a person who starts to work as of January 1, 1973 with asbestos exposure, you do not expect the person and you wouldn't find any lung cancer related to asbestosis in one, two or three years from now. So, the cancer of the lung and asbestos which developed into asbestosis, were related to his past exposure.

Q But, continued up until the time when he no longer was exposed, is that not true? It would continue up to the time when the exposure ceased?

A I don't -- I agree with you that he continued to get some asbestos fibers into his lungs, but I only want to express the fact that his disease was related to his past exposure and if he would have stopped any exposure in '68 he probably would have undergone the same course of events. We have seen that repeated

Lilis

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2 in hundreds of cases.

3 Q What are the other causes of lung cancer?

4 You can have lung cancer without being exposed to
5 asbestos, can you not?6 A Yes, you may have it due to smoking,
7 due to mining uranium, due to arsenic exposure, several
8 other causes.9 Q Can you say in this particular case
10 that the tumor, the carcinoma came from the exposure
11 prior to '72 or --

12 A Yes.

13 Q When prior to '72 would you say that?

14 A At least ten years prior to.

15 Q At least ten years before '72?

16 A Yes.

17 Q And that it was irreversible from then on?
18 I mean, it was a progressive condition?

19 A The risk was due to past exposure.

20 The tumor was not present ten years before, but the
21 risk was.

22 Q It what?

23 A The risk of developing a tumor.

24 Q When was it apparent that he had lung
25 cancer?

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A We are talking about two things. One is the risk of developing cancer. The other one is the cancer itself.

Q When would you say the cancer itself developed?

A Cancer, according to the records I had available, developed some time late in '72.

Q Late '72.

A Some time in '72, I would say.

Q You get that from the reading of the X-ray records?

A There is some indication on there, yes.

Q Of what?

A Of the enlarged left hilum.

Q What does the enlarged left hilum indicate?

A There is a suspicion of a tumor or growing out of the bronchus, the left main bronchus.

Q There was a suspicion of it according to those X-ray reports, but there was no identification of it at that time, was there?

A No.

Q You cannot say that it was there then, can you?

A No, I couldn't say that. I said it was a

1

2 suspicion.

3

4 Q When was --

5

6 A When were they sure that he had a tumor?

7

8 In October.

9

10 Q That was in 1973?

11

12 A Yes, that is why I said it prob.bly

13

14 started in '72. It takes some time, at least a couple

15

16 of months for a tumor to develop, to spread to the

17

18 lymph nodes.

19

20 Q Do I understand you to say that asbestosis

21

22 developed because of his exposure over a long period

23

24 of time.

25

A Yes.

Q

Carcinoma of the lung is not recognized

as an occupational disease, is it?

A

Not all cases of carcinoma of the lung are.

Q

Do you know of any cases in which it is

stated to be an occupational disease, the cancer itself?

MR. SHAFNER: I do not think your question

is meaningful.

A

By what definition, I might ask?

Q

By what definition?

A

Yes.

3

25

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2 Q By what definition is asbestosis
3 recognized as an occupational disease?

4 A It is recognized.

5 Q Is it particular to any particular
6 industry or work?

7 A It is well-known that cancer of the lung
8 is related to occupational exposure of several agents.

9 Q Occupational hazards, one being asbestos?

10 A Asbestos industry, yes.

11 Q You can also develop it from --

12 A And I can mention a couple of others and
13 I think I did so before. Those are well-recognized.

14 It is not only my opinion, it is a world-wide
15 opinion.

16 Q But, people have developed cancer of the
17 lung without any exposure to any particular --

18 A That is true.

19 Q If the carcinoma was present for
20 ten years --

21 A I did not say the carcinoma was present
22 for ten years. You did not understand me.

23 Q For some time prior to --

24 A Carcinoma was not present for ten years.

25 I can make a very definite statement that the carcinoma

1
2 was not present for ten years. You will never get a
3 person with carcinoma of the lung surviving for ten
4 years without surgery and there are relatively few
5 that survive even with surgery.

6 Q But, you can give no date when it did
7 develop?

8 A No, I can only give a --

9 Q It was certainly connected with the
10 asbestos exposure?

11 A My statement was that there was a high
12 probability of it being related to asbestosis with
13 this man's asbestos exposure in the past.

14 Q The asbestos exposure continued until
15 he could work, right?

16 A Right.

17 MR. JOHNSON: I have no further questions.

18 MR. BEANE: Just one more question.

19 EXAMINATION

20 BY MR. BEANE:

21 Q I think you indicated in one of your
22 answers to Mr. Johnson's question that even if this
23 man had stopped working with asbestos in 1968, the
24 subsequent events in all probability would have been the same?

25

1

A

Yes.

2

MR. BEANE: I have no further questions.

3

(Whereupon, the examination was concluded.)

4

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Subscribed and sworn to before me

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this ____ day of _____, 1976.

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss

COUNTY OF NEW YORK)

I, GALE SPINNER, a Notary Public

within and for the State of New York, do hereby
certify:

That RUTH LILIS, the witness whose
deposition is hereinbefore set forth, was duly
sworn by me and that such deposition is a
true record of the testimony given by such
witness.

I further certify that I am not related
to any of the parties to this action by blood
or marriage; and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 17th day of January, 1976.

Gale Spinner
GALE SPINNER

7676 NEW HAMPSHIRE AVENUE, SUITE 210 • LANGLEY PARK, MARYLAND 20783 • (301) 439 - 5600

UNITED STATES DEPARTMENT OF LABOR
Office of Administrative Law Judges

-----x
In the Matter of:
HELEN SOBOLEWSKI (widow)
JOSEPH S. SOBOLEWSKI (deceased)
Claimant
against
GENERAL DYNAMICS CORPORATION,
Employer
SELF-INSURED
Carrier
-----x

CASE NO.
76-LHCA-204

Council Chamber, Third Floor
City Hall
New London, Connecticut

Friday, January 9th, 1976.

The hearing in the above-entitled matter was
convened pursuant to Notice at 9:30 a.m.

BEFORE: Hon. Louis Scalzo, Administrative Law Judge

APPEARANCES:

For the Claimant:

MATTHEW SHAFNER, ESQ.
O'Brien, Shafner, Garvey, Bartinik & Stuart
Bridge Street, Route 1
Groton, Connecticut

87a

For the Employer:

NORMAN P. BEANE, JR., ESQ.
160 State Street
Boston, Massachusetts 02109

For the Carrier:

DOUGLAS B. JOHNSON, ESQ.
119 Church Street
New Haven, Connecticut

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C O N T E N T S

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Elliott L. Sagall	13	27 30	46	47 53
Gary M. Slep	65			
Helen Barbara Sobolewski	78	87		
Allen D. Eleazer	88	102 104		
Robert Secor	112	118 126	130	130
Bernard Edward Guillote	144	148		160
<u>EXHIBITS</u>	<u>FOR IDENTIFICATION</u>		<u>IN EVIDENCE</u>	
<u>Administrative Law Judge</u>				
1 (Notice of Hearing)	5			5
<u>Claimant</u>				
1-1 through 1-5 (Hospital report)	5			6
2-1 2-2 (Hospital reports)	5			6
3 (Certificate of death)	5			6
4 (Hospital report)	5			6
5-1 through 5-13 (Records- employer)	5			6
6 (Letter dated 8/14/75)	5			6
7 (Letter dated 7/1/75)	5			35
8 (Marriage License)	6			6
9 (Funeral Expense)	6			6
10 (Medical Report)	6			6

<u>EXHIBITS</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
11-1 through 11-9 (Correspondence)	6	6
12 (Report Dr. Sagall)	41	41
13-1 (Dr. statement) 13-2	72	72
14-1 (Employment 14-2 Record) 14-3	73	75
15 (Absentee calendar) 1971	73	75
16 ('72 absentee calendar)	74	75
17-1 (Absentee 17-2 Calendar 1973)	74	75
18-1 (Application 18-2 for Employment) 18-3 18-4	74	75

Employer

1 - 2 Chest survey	6	6
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P R O C E E D I N G S

THE JUDGE: This proceeding will come to order.

This is a hearing in the matter of the claim for death benefits under the provisions of the Longshoremen and Harbor Workers Compensation Act in the case of Mrs. Joseph Sobolewski, Claimant, against the General Dynamics Corporation and the Insurance Company of North America, Case No. 76-LHCA-204.

I am Louis Scalzo, the Administrative Law Judge assigned to conduct the hearing and render a decision in this case.

Will Counsel please identify themselves for the record. First for the Claimant.

MR. SHAFNER: On behalf of the Claimant, I am Matthew Shafner of the firm of O'Brien, Shafner, Garvey, Bartinik and Stuart, 500 Bridge Street, Groton, Connecticut 06340.

THE JUDGE: And for the General Dynamics Corporation?

MR. BEANE: Norman Beane, B-e-a-n-e-, Jr., Murphy and Beane, 160 State Street, Boston, 02109.

THE JUDGE: And for the Insurance Company of North America?

MR. JOHNSON: Douglas B. Johnson,

1 119 Church Street, New Haven, Connecticut.

2 Associated with me is Frank Daley, attorney,
3 202 Church Street -- 205 Church Street, New Haven.

4 THE JUDGE: All right. I think the record
5 should reflect at this point that Mr. Daley did not receive
6 a notice of the hearing in this case.

7 MR. JOHNSON: Nor did I.

8 THE JUDGE: Or Mr. Johnson. And this resulted
9 from the fact that he was not listed as one of the
10 necessary parties in this case upon referral of this claim
11 to the Office of the Administrative Law Judges. However,
12 my understand is that you have seen the notice, gentlemen,
13 and that you do desire to participate fully in this case.

14 MR. JOHNSON: I don't desire to, but I will.

15 THE JUDGE: Well, I consider you a necessary--
16 your Insurance Company of North America a necessary party
17 in light of the fact that your firm may possibly be involved
18 from a carrier standpoint.

19 The hearing is being held pursuant to notice
20 of hearing, which I just mentioned. This was issued on
21 November 11th, 1975. A copy of the 11/24, 1975 notice of
22 hearing together with attachments will be marked for
23 identification as ALJ Exhibit No. 1. Is there any objection
24 to including the notice of hearing and attachments as an
25 exhibit in this case, gentlemen?

1 MR. BEANE: None here.

2 MR. SHAFNER: None here.

3 THE JUDGE: There being no objection,

4 ALJ Exhibit No. 1 may be admitted.

5 (Whereupon, the document was
6 marked as ALJ Exhibit No. 1
7 for identification.)

8 THE JUDGE: Just prior to the hearing during
9 a pre-hearing conference a number of exhibits were discussed
10 by the parties and may be entered into the record by
11 stipulation and I'm going to briefly identify these exhibits
12 by number. First, Claimant's Exhibits, what has been
13 identified as Claimant's Exhibit 1-1 through 1-5, 1-1,
14 1-2, 1-3 and 1-4 and 1-5 being a hospital report relating
15 to a hospitalization in July of 1973. Claimant's Exhibit
16 2-1 being a hospital report relating to a hospitalization
17 in October of 1973 and also relating to that same hospital-
18 ization, Claimant's Exhibit 2-2. Claimant's Exhibit 3
19 being a certificate of death in this case. Claimant's
20 Exhibit 4 being a hospital visit report, dated July 25, '73.
21 Next, Claimant's Exhibit -- what has been identified as
22 Claimant's Exhibit 5-1 through 5-13, certain records of
23 the General Dynamics Corporation. Claimant's Exhibit 6,
24 a letter dated August 14, 1974, addressed to Mr. Matthew
25 Shafner by Dr. Philip B. Wade. Claimant's Exhibit 7,
a letter dated July 1, 1975, addressed to Mr. Shafner by

1 a Dr. Ruth Lilis. Claimant's Exhibit 8 is a marriage license
2 involving the marriage of the Claimant and her deceased
3 husband, Joseph Sobolewski. Claimant's Exhibit 9, a proof
4 of burial and funeral expenses record. Claimant's Exhibit
5 10, a medical report in connection with a health insurance
6 claim, dated 8/22, 1973 and a second page involving Claimant's
7 Exhibit 10 captioned an accident and sickness claim group
8 insurance claimant statement. The next group of Claimant's
9 Exhibits would be Claimant's Exhibits 11-1 through 11-9,
10 consisting of certain correspondence with the Department of
11 Labor and forms relating to the -- this claim. The next
12 items are identified as employer exhibits, a letter dated
13 May 18th, 1972, To Whom It May Concern, signed by a Dr.
14 Stanley E. Kilty and another portion of that same exhibit
15 marked 1-2, a chest survey dated 1/19/73 relating to the
16 deceased employee, Joseph Sobolewski.

17 Now, the documents that I referred to in a
18 general sense, gentlemen, have you had an opportunity
19 to fully examine those? First of all, Mr. Shafner?

20 MR. SHAFNER: Yes.

21 THE JUDGE: And you agree that these documents
22 may be made part of the record?

23 MR. SHAFNER: Yes, sir.

24 THE JUDGE: Mr. Beane, have you had an
25 opportunity to examine these?

1 MR. BEANE: I would object to Claimant's
2 Number 7, your Honor. That's the report from Mt. Sinai
3 Hospital. I understand that the doctor is going to be
4 deposed but it may well be of no moment but at this point
5 I object to it as hearsay.

6 THE JUDGE: Isn't this one that you
7 stipulated to during our pre-hearing conference?

8 MR. BEANE: I thought I was stipulating it
9 for identification purposes. I'm sorry.

10 THE JUDGE: I see. Then I'm going to return
11 this to you, Mr. Shafner, and I'll just leave it here.

12 MR. SHAFNER: Sir, can I make a suggestion?
13 Rather than re-number all the other exhibits, why don't we
14 just leave it aside for the moment and when the time comes
15 I'll offer it again and we can --

16 THE JUDGE: We'll just mark it for identification
17 at this time. However, with Claimant Exhibit No. 7, do you
18 gentlemen interpose any objection to the admission of these
19 documents into the record?

20 MR. BEANE: No, I don't.

21 THE JUDGE: Mr. Johnson?

22 MR. JOHNSON: I have no objection.

23 THE JUDGE: There being no objection, with
24 the exception of what has been identified as Claimant's
25 Exhibit No. 7, all the others are admitted into the record.

1 MR. JOHNSON: Dr. Sagall is here to testify.
2 His report will not include --

3 THE JUDGE: No. That was mentioned earlier
4 during the pre-hearing conference, but it was not made an
5 exhibit.

6 I wish to advise counsel that any decision
7 made in this matter will be based solely on the record
8 made at this hearing. Any other papers or exhibits
9 previously submitted to or filed with the Deputy Commissioner
10 are not a part of this record as of this time as you were
11 advised by the letters accompanying the notice of hearing.
12 Any such papers or documents must be offered by counsel
13 at this hearing and be admitted as evidence in order to be
14 considered.

15 I think at this point, gentlemen, we will
16 have your opening statements in order to expedite this.
17 I understand that Mr. Beane has a medical witness and I
18 would like to have your opening statements.

19 First, Mr. Shafner?

20 MR. SHAFNER: Thank you, your Honor.

21 On behalf of the Claimant, this is a claim
22 based on the case relating to Joseph Sobolewski. He was
23 a pipe lagger or coverer at Electric Boat, a division of
24 General Dynamics in Groton, Connecticut for eighteen years,
25 prior to this death.

1 In that capacity he worked intensively with
2 insulation materials covering the pipes and various parts
3 of submarines and especially with asbestos materials.

4 In addition, he had a job cutting and shaping
5 and handling asbestos materials. In addition, a substantial
6 part of his job included for many years ripping out of old
7 asbestos materials in older submarines that were undergoing
8 repairs or overhauls.

9 As part of this process he was close to
10 asbestos fibers extensively, for the last eighteen years of
11 his life, and as a result he developed cancer which led to
12 his death.

13 It is the Claimant's position that the cancer
14 was a direct result of the inhalation of the asbestos fibers
15 and materials. In addition, it was found at a later date
16 that he also had asbestosis.

17 I think that is substantially the position of
18 the Claimant.

19 THE JUDGE: And you are claiming death
20 benefits as of what date, Mr. Shafner?

21 MR. SHAFNER: From October 10, 1973. He was
22 also disabled prior to that.

23 THE JUDGE: You claim that the disability
24 had an onset as of October 10, 1973?

25 MR. SHAFNER: The disability began, as far as

1 we can tell on June 29th, 1973 according to the medical
2 reports of the employer, which indicated that was his last
3 date of work. We understand he may have worked several
4 days in the month of August. We do not have the dates.

5 THE JUDGE: So you are claiming permanent
6 total disability from June 29, 1973?

7 MR. SHAFNER: Yes.

8 THE JUDGE: Until the date of death?

9 MR. SHAFNER: Yes, sir.

10 THE JUDGE: And what is the date of death?

11 MR. SHAFNER: October 10, 1973.

12 THE JUDGE: Do you have anything further,
13 Mr. Shafner?

14 MR. SHAFNER: No, sir.

15 THE JUDGE: Mr. Beane?

16 MR. BEANE: May it please the Court, Mr.
17 Sobolewski had succumb to cancer of the lungs October 10th,
18 1973. According to the death certificate, he had had this
19 tumor at least one year prior to his death. X-rays --
20 x-ray reports prior to January of 1973 which indicated at
21 that time that Mr. Sobolewski had a tumor and he was
22 advised to seek medical help but he stated that he felt
23 great and did not go to a doctor. The Claimant's intention
24 is that this man's death is due to cancer of the lungs
25 which is unrelated to his employment and specifically is

1 unrelated to any employment after April 1st, 1973 when
2 General Dynamics became a self insurer.

3 From the medical records, this man already
4 had developed lung cancer and whatever he did thereafter
5 was not going to affect the ultimate cause of the course
6 of the carcinoma and that consequently any exposure, be
7 there any, and we contend that there was no exposure in
8 1973, that this would bear no relationship to Mr. Sobolewski's
9 death.

10 We also raise one further issue. It's my
11 understanding that Mr. Sobolewski did work in July and
12 August of 1973 and I would object to my brother's contention
13 that he was critically and totally disabled during that
14 period of time. He may well have been permanently partially
15 disabled, but he did work part of the time and I think
16 that the evidence would show that he did work and that he
17 was not permanently and totally disabled during that
18 period of time.

19 THE JUDGE: What was the date that the
20 General Dynamics became a self insured --

21 MR. BEANE: April 1st, 1973.

22 THE JUDGE: It's your contention that there
23 was no exposure after this date?

24 MR. BEANE: It's our contention there was
25 no exposure after that date and also that any possible

1 exposure after that date would play no part in the develop-
2 ment of the lung cancer which is clearly what the cause of
3 the death was. My brother indicated that there -- that
4 he developed asbestosis. It's not clear from my records
5 that this is so. But in any event, no one suggests that
6 the asbestosis was the cause of death.

7 Thank you.

8 THE JUDGE: Are you going to participate on
9 behalf of the Insurance Company of North America, Mr.
10 Johnson?

11 MR. JOHNSON: Yes.

12 THE JUDGE: You're going to carry the ball,
13 so to speak?

14 MR. JOHNSON: Yes.

15 THE JUDGE: All right.

16 MR. JOHNSON: It would be the Insurance
17 Company of North America's claim that if the Claimant
18 proves his case that there was a death caused by an outgrowth
19 of asbestosis, which is the claim, that there was at the
20 last insurer under the law is the responsible person under
21 the Cardome Case, and that if there is any responsibility
22 at all that it would be upon the Electric General Dynamics --
23 Electric Boat as a self insurer.

24 THE JUDGE: Do you have anything further,
25 Mr. Johnson?

1 It will not be necessary to supply that
2 citation at this time.

3 Anything further, Mr. Johnson?

4 MR. JOHNSON: No.

5 THE JUDGE: Now, Mr. Shafner ordinarily
6 we would proceed right with your first witness and it's my
7 understanding that you interpose no objection to calling
8 a witness of Mr. Beane's out of order. Is that correct?

9 MR. SHAFNER: That's correct.

10 THE JUDGE: And this is one medical witness?

11 MR. SHAFNER: That's correct.

12 THE JUDGE: You may call your witness, Mr.
13 Beane.

14 ELLIOTT L. SAGALL

15 was called as a witness and, having been first duly sworn,
16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BEANE:

19 Q State your name for the record, please?

20 A Elliott L. Sagall, 454 Brookline Avenue,
21 Boston, Massachusetts.

22 Q And you're a licensed physician, sir?

23 A Yes, in the Commonwealth of Massachusetts.

24 Q And did you specialize in any particular
25 branch of medicine?

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1 A In general medicine, cardiovascular diseases.

2 Q And are you certified by any American Board
3 of Specialties?

4 A I am certified by both, by the American Board
5 of Internal Medicine and further certified by the subspecialty
6 Board of Cardiovascular Diseases.

7 Q Doctor, did you have an opportunity to examine
8 the hospital records for one Joseph Sobolewski for an
9 admission to the Lawrence and Memorial Hospital in July of
10 '73, again in October of '73?

11 A I reviewed the records for an admission of
12 July 1, 1973. I'm not sure that I saw the records of
13 October.

14 Q Doctor, what was the diagnosis on the
15 hospital records on the admission of July 1st?

16 A There were findings of poorly differentiated
17 carcinoma thought to be primary in the lung.

18 Q Could I have Claimant's Exhibit 1 --

19 Here is a copy of the hospital record from
20 July 9th, 19 -- July 1st, 1973 and the final diagnosis was
21 what?

22 A Probably carcinoma of left lung with
23 axillary lymph node metastases.

24 Q Now, what caused Mr. Sobolewski to go to the
25 hospital?

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1 A He entered because of a mass in the axilla.

2 Q Where is the axilla, sir?

3 A The arm pit.

4 Q In other words, he had a lump under the arm.

5 Is that correct?

6 A Yes.

7 Q And was he subjected to certain tests and a
8 work up before this hospitalization?

9 A Yes.

10 Q And what did these reveal?

11 A Well, the admission physical examination
12 revealed a three by three cm large axillary lymph node with
13 several smaller axillary nodes and shotty cervical and
14 inguinal nodes. The physical examination of the lung showed
15 diminished breath sounds at the left base and rales at the
16 right base. The liver was enlarged. The laboratory studies
17 showed an essentially normal hemogram although he was
18 slightly a anemic with hemogram of 13.8, Hct. 41. Blood
19 chemistry were normal, the sedimentation rate was elevated.
20 The urine showed colony count of 10,000/cc and moderate
21 growth of Alpha Strep. Washings of the bronchial tree were
22 positive for malignancy showing poorly differentiated
23 carcinoma and examination of the sputum showed evidence of
24 metaplasia which is carcinoma on three occasions.

25 Chest x-ray revealed a mass in the left hilar

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1 region with partial collapse of the left upper lobe.
2 Metastatic series showed no gross evidence of metastatic
3 disease.

4 THE JUDGE: Mr. Beane, I see no reason
5 why the doctor should read this entire exhibit into
6 the record. Perhaps if his testimony could explain
7 or supplement in any way that exhibit, it would be
8 helpful. I already have that into the record and it
9 will not be necessary to read it.

10 Q Doctor, I think in those papers you will find
11 Exhibit 2, which is a hospital admission for October 7th,
12 of 1973. Can you tell me what the final diagnosis was?

13 A Carcinoma of lung with metaplasia.

14 Q And Exhibit Number 3, Claimant's Exhibit
15 Number 3 is the copy of the death certificate. Could you
16 tell me what the cause of death was?

17 A Carcinoma of lung with metaplasia.

18 Q Now, Doctor, after reviewing those records,
19 do you have an opinion as to how long this man had a tumor
20 in his lung?

21 A Yes.

22 Q What is that opinion, sir?

23 A My opinion is that this man had carcinoma
24 of the lung for some time prior to the admission to the
25 hospital on July 1, 1973 and that this time period would be

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1 measured in terms of months to a year or two years.

2 Q I see.

3 Now, Doctor, have you -- I would like to show
4 you one other item.

5 Your Honor, could I have Claimant's Exhibit
6 Number 5 and Number 7, I believe.

7 THE JUDGE: We do not have a 7. As a
8 result of your objection, Mr. Beane.

9 However, if you want to use that document,
10 there is no reason why you couldn't under stipulation.

11 BY MR. BEANE:

12 Q I call your attention to Claimant's Exhibit
13 Number 5, a chest x-ray of February 8th, 1972. Was that a
14 normal chest x-ray?

15 A Not according to this report.

16 Q What did it show, sir?

17 MR. SHAFNER: I object if your Honor please --

18 MR. BEANE: These are x-ray reports.

19 MR. SHAFNER: If the doctor is going to read
20 from reports which are already exhibits, I think we are
21 wasting a lot of time.

22 THE JUDGE: Mr. Beane, in that area, this
23 document is already in the record and it's legible, I can
24 read it.

25 MR. BEANE: My question to him, your Honor,

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1 was was that a normal chest x-ray. The purpose of this is
2 to attempt to establish the length of time that this man
3 had the tumor. So I'm going to this x-ray and another
4 x-ray which both shows an abnormality and I'm going to ask
5 the doctor if they will help him in giving us a date on
6 the length of time he had the tumor.

7 THE JUDGE: :Mr. Shafner, I believe the
8 doctor has established his qualifications as an internist
9 and cardiovascular diseases. Is it your position that he
10 is not qualified --

11 MR. SHAFNER: I don't know. I was going
12 to ask him about his qualification and his area of
13 interest -- I was going to ask him that on cross examination.
14 If all he is going to do is read from the reports and
15 x-rays, I don't see that that helps us.

16 THE JUDGE: Well, I don't believe -- Mr.
17 Beane, your question is of a general nature and --

18 MR. BEANE: Your Honor, it is not of a
19 general nature. I asked specifically whether or not a
20 certain x-ray was normal or abnormal, and it's a specific
21 x-ray. I assume the doctor has read these x-rays.

22 THE JUDGE: Just a moment, Mr. Beane. I'd
23 like to, if you will, establish in more detail Dr. Sagall's
24 qualifications and then I think those special questions
25 will enable me to let you get into the question of opinion

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1 with respect -- I think if we do that that we might find
2 it a little easier when we get into this opinion evidence.

3 BY MR. BEANE:

4 Q Doctor, would you tell me what hospitals
5 you're connected with?

6 A Connected with the Beth Israel Hospital
7 in Boston and the Brookline Hospital in Brookline.

8 Q And can you tell me something about the
9 Beth Israel Hospital. Is that a teaching hospital in the
10 city of Boston?

11 A University teaching hospital associated with
12 Harvard Medical School.

13 Q And could you tell me also, Doctor, your
14 educational background?

15 A Graduated from Harvard College and Harvard
16 Medical School the latter of March, 1943; had my medical
17 internship assistant residency and then later a six month
18 post graduate session in medicine at the Beth Israel Hospital
19 in Boston.

20 Q Now, Doctor, in the course of your practice,
21 do you have occasion to see patients who have lung cancer?

22 A Yes.

23 Q And how often do you see patients who have
24 lung cancer?

25 A It's hard to put a specific number since this

1 is not that common a condition. I see a relatively good
2 number of patients who have all sorts of pulmonary disease
3 including lung cancer particularly in connection with the
4 many evaluations that I perform for Workmen's Compensation
5 and other similar purposes in connection with lung disease
6 related to occupations.

7 Q And do you in connection with your cardio-
8 pulmonary practice, do you treat diseases of the lung?

9 A Non surgical procedure -- treatment. I don't
10 do any surgery but I treat many patients who have a variety
11 of lung disease.

12 Q Is that satisfactory, your Honor?

13 THE JUDGE: I'm going to permit the question
14 asked earlier, Mr. Shafner, on the ground that I think
15 that his qualifications have been established sufficiently
16 for the purposes of expressing an opinion with respect to
17 diseases of this nature --

18 MR. SHAFNER: May I ask one question before
19 your Honor rules. This is concerning qualifications.

20 THE JUDGE: Yes.

21 MR. SHAFNER: Doctor, how many patients
22 have you treated who have had conditions of asbestosis
23 or asbestos related chest diseases?

24 DR. SAGALL: I personally have not treated
25 many. I examined probably several hundred patient over the

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1 course of years who have had asbestosis, asbestos lung
2 disease.

3 MR. SHAFNER: And you made that diagnosis
4 yourself?

5 DR. SAGALL: Well, I have made that diagnosis
6 by reason of the history and examination, the x-ray findings
7 and review of hospital records and other medical data that
8 have been presented to me in connection with these examin-
9 ations.

10 MR. SHAFNER: You say several hundred?

11 DR. SAGALL: I would say it is in the vicinity
12 of several hundred over the course of the last ten or
13 fifteen years.

14 MR. SHAFNER: Are these for insurance
15 carriers or patients of your own?

16 DR. SAGALL: These have been primarily for
17 medical evaluations for insurers or plaintiffs. I personally
18 in view of the nature of my personal practice, have not
19 had that kind of a patient population which has asbestosis.
20 A few of my personal patients have had an asbestos history
21 and have pulmonary asbestosis.

22 MR. SHAFNER: Thank you.

23 THE JUDGE: You may proceed, Mr. Beane.

24 BY MR. BEANE:

25 Q Doctor, I'd like to call your attention to

1 Claimant's Exhibit Number 5, which is an x-ray report of
2 February 22, and also one in January of '73. Would --

3 THE JUDGE: Would you identify them also
4 by number, Mr. Beane?

5 MR. BEANE: Yes, I will.

6 Strangely enough, the number doesn't seem to
7 be on here, your Honor.

8 THE JUDGE: It should be on the bottom of
9 the page.

10 MR. BEANE: Oh, I'm sorry. 513 and 5-1, --
11 5-5 and 5-13.

12 BY MR. BEANE:

13 Q Have you examined those x-ray reports, sir?

14 A Yes.

15 Q And what do they reveal?

16 A Well, the x-ray reports are those of an
17 abnormal chest with findings of a pulmonary lesion first
18 mentioned on February 8, 1972 and then further described
19 on February 18th, 1972 x-ray and confirmed again on March
20 9th, '72 and further confirmed on January, 1973 with the
21 findings at the latter date and those of the earlier ones
22 said to have question of tumor of the left upper lobe of
23 the lung.

24 Q Now, ultimately, this man was hospitalized
25 in the summer of 1973, where was the tumor?

1 MR. SHAFNER: Excuse me. Can I have that
2 last answer -- the witness is referring to something about
3 a tumor and I'm not certain what page he was on.

4 THE JUDGE: Are you referring to Page 5-13,
5 Doctor?

6 DR. SAGALL: Yes, I'm referring to 5-13
7 and I wish to amend it. I misread this. It's questioned
8 tumor. It doesn't say just where it was located. It says
9 question tumor also and then there are some initials
10 apparently somebody's initials and I thought it was left
11 upper lobe, but it isn't.

12 THE JUDGE: Thank you, Mr. Shafner.

13 BY MR. BEANE:

14 Q Does that help you any further in dating
15 the onset of this man's tumor?

16 A Yes.

17 Q How old would you say it was? Prior to this
18 man's death, sir?

19 A Well, it existed for some time prior to
20 February 8th, 1972.

21 Q Now, Doctor, what is the course of lung
22 cancer once it develops?

23 A Unfortunately, most lung cancers are fatal
24 despite any treatment that's given except those that are
25 located out in the periphery of the lung and are amenable

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1 to surgical removal. The percentage cure is very small.

2 Q Now, Doctor, having in mind that this man
3 worked in 1973, do you have an opinion as whether the work
4 he did in '73 played any part in his death in October, 1973?

5 THE JUDGE: Mr. Beane, I don't believe the
6 record indicates that he has worked --

7 MR. BEANE: Well, assuming that he did work
8 in 1973, I'll have to get this in because that evidence
9 isn't in but it will be in --

10 THE JUDGE: Well, you're asking us -- I don't
11 understand the nature of your assumption.

12 MR. BEANE: Assuming that Mr. Sobolewski
13 worked during the calendar year 1973. Does the doctor
14 have an opinion based on his review of these medical
15 records and his opinion is from the onset of the tumor as
16 to whether the work that he did in 1973 played any part
17 in his death.

18 THE JUDGE: The reason I do not understand
19 your assumption is because the phrase worked in 1973 he
20 could have worked for one day or one hour or six months
21 or nine months or twelve months.

22 MR. BEANE: Well, let me make the further
23 assumption that he worked virtually on a daily basis from
24 the 1st of 1973 until June 29th, 1973.

25 MR. SHAFNER: There is one thing that is
left out, the type of work he did.

1 MR. BEANE: Well, we can get into that.

2 Just ask him --

3 THE JUDGE: Well, I think your assumption --
4 I'm not going to allow him to answer that question because
5 his answer is not going to be very meaningful for the
6 record to me unless you postulate some facts for the
7 expression of his expert opinion. If you could, and it
8 seems to me that you could do it quite easily, Mr. Beane,
9 is to ask him to assume certain facts --

10 MR. BEANE: All right, sir.

11 BY MR. BEANE:

12 Q Doctor, I want you to assume this man by
13 x-ray had a finding of a tumor in the left lung in February
14 of 1972. That he nevertheless continued to work regularly
15 up until June 29th, 1972, some of this work involved
16 working with asbestos although he, during that period of
17 time would be using respirators, that he continued to
18 work until June 29th, 1973, that thereafter he was admitted
19 to the hospital and a diagnosis of carcinoma of the lung
20 was made. Thereafter he returned to work for a couple of
21 weeks and the latter part of July or the first part of
22 August, 1973; thereafter stopped working, was admitted to
23 the hospital again on October 7th, 1973 and succumbed to
24 cancer of the lung on October 10th.

25 Now, assuming those facts, Doctor, do you

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1 have an opinion as to whether the work that he did in
2 the calendar year 1973 played any part in his death?

3 A Yes.

4 Q What is that opinion?

5 A No.

6 Q And what is the reason for that opinion?

7 A Well, the reason is that there was evidence
8 by x-ray of lung tumor in '72 that the findings --

9 THE JUDGE: Excuse me, Doctor, just a moment.

10 MR. JOHNSON: Yes, I don't think there is
11 any evidence in the tumor in 1972, in the record that he
12 read.

13 MR. BEANE: He can certainly cross examine
14 the doctor on that point.

15 MR. JOHNSON: Well --

16 THE JUDGE: This is a matter for cross
17 examination, I believe, Mr. Johnson.

18 Proceed Mr. Beane.

19 BY MR. BEANE:

20 A The x-ray report of February 18, 1972 describes
21 infiltration at both basis of the lung and in the latter
22 view infiltration present in the left upper lobe. A repeat
23 x-ray of March 9th, 1972 stated there was no definite
24 change in the appearance of the lungs. The findings of an
25 x-ray of January 19, 1973 report question tumor. Findings

1 of July of '73 indicate a metastatic disease to the
2 axillary lymph nodes confirmed by biopsy and chest x-ray
3 showing a large mass in the left hilum with collapse of the
4 left upper lobe. In my opinion, indicate that the cancer
5 of the lung which causes these findings had been present
6 for many months and at least for -- since February 1972,
7 and that therefore this condition antedated any work done
8 in '73. The records further do not indicate any aggravation
9 of this condition by work activities but point to the
10 inexorable progression, extension, growth, metastatic lesions
11 and death such as is expected during the natural history
12 of lung cancer.

13 MR. BEANE: I have no further questions.

14 CROSS EXAMINATION

15 BY MR. JOHNSON:

16 Q Referring to the subsequent item in February
17 of 1972, there was a tumor of the lung. Where do you find
18 that?

19 A I find first that in the chest survey report
20 of February 8, 1972 there is check abnormal chest,
21 additional x-ray examination recommended as follows: PA
22 and lateral in one week, additional check on the number
23 eleven of question pulmonary lesion and statement any URI,
24 which means any upper respiratory infection.

25 Q It doesn't state that there is a tumor in

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1 there, does it?

2 A I haven't finished my answer yet.

3 THE JUDGE: Finish, Doctor.

4 A The second x-ray report is a February 18,
5 1972 which describes the PA and lateral examinations and
6 says there now appears to be infiltration in both basis
7 and in the lateral view there is an infiltration present
8 in the left upper lobe.

9 THE JUDGE: Have you completed your answer,
10 Doctor?

11 A No. These findings when looked at in
12 retrospect with the benefit of the subsequent x-ray of 1973,
13 January, and in July and the pathologic diagnosis of the
14 specimen renewed during his hospitalization in July, in
15 my opinion, point to the presence of tumor at that time
16 even though the diagnosis specifically was not made or
17 recorded on the x-ray report, at that time.

18 Q Actually there was nothing mentioned in
19 those reports in 1972 of a tumor as you stated?

20 A Those words were not mentioned. It did
21 state that serial films are suggested for differential
22 diagnosis.

23 Q Whether or not those were ever done, you
24 don't know?

25 A No, I don't know whether or not those were

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1 done except that in 1973, in January of 1973, the x-ray
2 report checks pulmonary lesions and then says question
3 tumor also.

4 Q Up to that point, there was no tumor found.
5 It was a question of one. Is that right? And that first
6 appeared in January of '73.

7 A Well, it was no tumor diagnosed per se, but--
8 in those words by the individuals who reported those
9 x-rays but they did not have the benefit that I have of
10 the later x-ray studies. So looking in retrospect it is
11 still my opinion that this man had a lung cancer in
12 February of 1972 even though it was not specifically
13 diagnosed as such.

14 Q The question of lung cancer could be from
15 any cause, could it not?

16 A There are many possible causes of lung
17 cancer only a few of which have been isolated or pinpointed
18 with any reasonable degree of medical certainty.

19 Q I take it that it is your opinion then there
20 is no evidence that cancer of the lung was due to employ-
21 ment anyway?

22 A Based upon these records that I've reviewed
23 here, I would say there is no evidence that this man's
24 cancer of the lung was due to his employment.

25 MR. JOHNSON: That's all.

1 THE JUDGE: Mr. Shafner?

2 CROSS EXAMINATION

3 BY MR. SHAFNER:

4 Q Doctor, you don't primarily treat diseases
5 of the chest, do you? That's a very small part of your
6 practice, isn't it?

7 A Let's say it's a smaller part of my
8 practice. I treat patients who have lung disease. Most
9 of my practice is aimed at cardiology but there are patients
10 who have co-existent lung disease and I also do internal
11 medicine.

12 Q You are one of the leading authorities
13 in cardiology in New England, are you not?

14 A I do a lot of it. I don't know what I am
15 considered.

16 Q I had occasion to read one of your books
17 in cardiology.

18 Now, in your background I assume, Doctor,
19 that you publish papers in various fields of medicine in
20 which you're interested?

21 A Yes.

22 Q Have you ever published any concerning chest
23 diseases?

24 A Yes, I have published a paper specifically
25 on the relationship of asbestosis and cancer.

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1 Q Where was that published, sir?

2 A I think it was published in Trial Magazine
3 several years ago.

4 Q Trial Magazine?

5 A Yes.

6 Q Is that a publication of the Association of
7 Trial Lawyers of America?

8 A Yes.

9 Q Is it a survey of the existing literature
10 in the field of asbestos related to cancer?

11 A It was a survey of a couple hundred medical
12 articles that had been written up until the time that this
13 article was put together by me.

14 Q And, sir, have you done any independent
15 research yourself in the field of asbestos related disease?

16 A No research per se, no.

17 Q Some of these articles and literature that
18 you relied upon in preparing your article come from
19 Dr. Silettoff from the Mount Sinai School of Medicine?

20 A Yes.

21 Q Is that one of the leading authorities in
22 the world on the study and causation of asbestos related
23 diseases?

24 A Well, I don't know that that category -- he's
25 written a lot, he spent a lot of time and a lot of

1 investigation. He is well respected in the medical field.
2 He is one who has major interest in the field of asbestos
3 disease and surveys of asbestos workers over a period of
4 years.

5 Q And, Doctor, is there any question in your
6 mind from your review of all the medical literature that
7 there is a definite connection between asbestos exposure
8 and lung cancer?

9 A I would feel that at the present stage of
10 medical knowledge that this is a reasonable probability
11 and in individuals who have had exposure -- there are
12 certain limitations -- individuals who have had exposure
13 to asbestos material via inhalation some twenty to thirty
14 years prior to the development of lung cancer and
15 particularly in males and particularly in males who smoke,
16 I believe that the present stage of medical knowledge
17 warrants the assumption of a probable causation element in
18 some way between that exposure and the later development
19 of bronchogenic lung carcinoma.

20 Q Do you know what the excess risk is for
21 the development of lung cancer in those male individuals
22 who have had extensive exposure?

23 A I don't know the exact figures except I do
24 know if you take the ordinary population and start
25 examining it for incidents of lung cancer one finds increasing

1 incidents in risk in males and then particularly males who
2 smoke and particularly males who smoke and have been exposed
3 to asbestos inhalation many years previously.

4 Q That has been well established at Mt. Sinai
5 as well as other authorities in this country. Has it not, sir?

6 A The relationship between asbestos exposure
7 years previously and later development of lung cancer as
8 well as other kinds of cancer has been established scientif-
9 ically not only at Mt. Sinai but also by many, many other
10 investigators in national and international.

11 Q Doctor, in your investigation into this
12 case, and your preparation for it, I take it that Mr. Beane
13 sent you a number of records which included the July, 1973
14 hospital record and the x-ray reports that you previously
15 discussed.

16 A Yes.

17 Q Am I correct, sir?

18 A Yes.

19 Q And he also sent you the death certificate?

20 A Yes.

21 Q He did not sent the October, 1973 hospital
22 records, I take it?

23 A No.

24 Q And in reviewing these records, I take it
25 you did not have the actual x-ray films to investigate

1 yourself?

2 A No.

3 Q So that your testimony relies upon the
4 reports of -- that you mentioned previously which are
5 Exhibits. Is that correct, sir?

6 A As far as the x-rays, I'm relying on reports
7 reported by, I presume, a radiologist.

8 Q Yes. And these are the ones which are
9 exhibits and which were shown to you by Attorney Beane on
10 direct examination.

11 A The reports, yes.

12 Q Now, also as part of your report which we've
13 had the benefit of previously, did you also rely upon the
14 information contained in the report of the Mt. Sinai School
15 of Medicine, dated July 1, 1975 and signed by Dr. Ruth
16 Lillis, L-i-l-i-s?

17 A Yes.

18 MR. SHAFNER: Therefore, re-offering at this
19 time, your Honor.

20 THE JUDGE: Mr. Beane?

21 MR. SHAFNER: Previously marked 7 for
22 identification.

23 THE JUDGE: Are you saying that this comprised
24 the basis of your -- this report was available to you and
25 was incorporated into your testimony?

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7 35

1 THE WITNESS: This report was available to
2 me. The thrust of my testimony would be exactly the same
3 whether or not I had this information -- given the other
4 information I had -- it was presented to me so I considered
5 it along with all the other information I had.

6 THE JUDGE: It's been re-offered, Mr. Beane.

7 MR. BEANE: I still object.

8 THE JUDGE: Mr. Johnson?

9 MR. JOHNSON: I still object.

10 THE JUDGE: I'm going to admit it at this
11 time. It's my understanding also that Dr. Lillis will be
12 deposed at this hearing. Is that correct?

13 MR. SHAFNER: Yes, your Honor. The next
14 Friday at 10 o'clock in the morning.

15 THE JUDGE: I am going to admit Claimant's
16 Exhibit 7.

17 (Whereupon, Claimant's Exhibit
18 No. 7 was received in
19 evidence.)

20 THE JUDGE: You may proceed, Mr. Shafner.

21 MR. SHAFNER: Thank you.

22 BY MR. SHAFNER:

23 Q Now, Doctor, in looking over the x-ray
24 reports that I believe are contained in Exhibit 5, would
25 you refer to 5-6, that's the report dated February 18th,
1972. Does there appear there a report or a suggestion

1 that there is a pneumonic process going on in this man's
2 lungs?

3 A Well, there is an opinion expressed by Dr.
4 F.J. Fegan, who apparently read the x-rays stating "This
5 most likely represents a pneumonic process probably
6 atypical pneumonia, however serial films are suggested for
7 differential diagnosis".

8 Q Now, Doctor, is that diagnostic of the disease
9 of asbestosis?

10 A This, no.

11 Q Is it suggested though the disease of
12 asbestosis?

13 A No.

14 Q It doesn't have anything to do with that
15 disease at all?

16 A Not these findings.

17 Q Now, will you refer to the following x-ray
18 report dated March 9, 1972, exhibit 5-7. Do you have that
19 one, sir?

20 A Yes.

21 Q Do you see the finding there states that this
22 probably represents some type of pulmonary fibrosis. Do
23 you have that, Doctor?

24 A Yes.

25 Q And is that diagnostic of asbestosis?

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1 A No.

2 Q Is it suggestive of asbestosis?

3 A Well, the findings may occur but it's not
4 diagnostic. It can --

5 Q Excuse me. Perhaps you didn't understand my
6 question.

7 Is it suggestive of asbestosis?

8 A No more than suggestive of any of the other
9 causes of pulmonary fibrosis.

10 Q And it's consistent with the disease of
11 asbestosis, is it not?

12 A Consistent with that disease and many other
13 diseases.

14 Q Right. But if you were going to make a
15 diagnosis of asbestosis that would be a very important
16 finding, would it not?

17 A Not in making the diagnosis of asbestosis.
18 This is not a typical classic finding and one would have to
19 have other more definitive findings to diagnose asbestosis.

20 Q What other findings would you need to make
21 that diagnosis?

22 A Primarily the diagnosis would require the
23 demonstration of asbestos bodies in lung tissue or sputum
24 produced from the lung or bronchial washings.

25 Q Any other findings, sir?

1 A Other findings that are more suspicious are
2 calcification along the lateral pleural margins of the
3 lungs on x-ray, which are not mentioned here.

4 Q Any other findings in order to make that
5 diagnosis?

6 A No primarily the diagnosis would revolve
7 back to the demonstration of asbestos bodies.

8 Q What about pleural scarring?

9 A Pleural scarring, as I mentioned with
10 pleural calcification on the lateral border is frequently
11 seen with asbestosis but by itself and does not enable a
12 diagnosis.

13 Q But it is consistent with the diagnosis
14 and it is even suggestive of asbestosis. Is that correct,
15 sir?

16 A I'm certain -- I'm not certain what you mean
17 by the term suggestive. I think we have different meanings.
18 Many findings to a physician suggest the possibility of a
19 host of diseases. He has to go looking at them. That does
20 not mean because they have been suggested to him that they're
21 there. This is part of the process of differential diagnosis.

22 Q But if you saw pleural scarring and you also
23 had the finding of pulmonary fibrosis, you had a man with
24 a long history of exposure to asbestos materials, you'd
25 be suspicious of some asbestos related disease, wouldn't you?

1 A I would be suspicious of the possibility of
2 some asbestos related --

3 Q That's all I'm trying to get at.
4 Now, did you also refer to the x-ray report
5 of January 19, 1973? Do you have that?

6 A 1972?

7 Q '73.
8 Do you see where it says there probably
9 asbestosis?

10 A Yes.

11 Q Do you think that would be suggestive of
12 the disease of asbestosis?

13 A Well, it's suggestive that the person who
14 read the x-ray felt that it was suggestive of asbestosis.
15 There is no detailed report here.

16 Q Doctor, did you read the x-ray?

17 A No.

18 Q Now, I take it -- by the way, you filed a
19 report, have you not? To Mr. Beane dated August 22, 1975?

20 A I don't know what you mean by the term filed.
21 I sent Mr. Beane a report dated August 22, 1975.

22 THE JUDGE: I was just going to ask you, is
23 that part of the record?

24 MR. SHAFNER: I don't think it is and if it
25 isn't, I would like to have it be made part of the record

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1 at this point.

2 MR. BEANE: I have no objection.

3 THE JUDGE: Do I have a copy of that
4 gentlemen?

5 MR. SHAFNER: Yes, sir.

6 MR. BEANE: I don't think -- I don't think
7 you have a copy.

8 MR. JOHNSON: I object with the doctor being
9 here. There is nothing contradictory that he has testified
10 to so far and I object to the admission of this report.

11 THE JUDGE: I have to take a look at it.

12 I'm looking at the report dated August 22,
13 1975 prepared by you. Is that right, Doctor?

14 THE WITNESS: Yes.

15 THE JUDGE: And what is the basis of your
16 objection, Mr. Johnson?

17 MR. JOHNSON: It is the conclusion at the
18 end of the report where he says that the asbestos inhaled
19 during the final weeks in 1973 had no effect because that's
20 the whole question -- that's the main question in this
21 case. If I was at that time -- and the law is to the
22 effect under the Cardello case that insurer, where the
23 last employer insures, is the responsible person.

24 THE JUDGE: I understand the law in there.

25 Now, you're offering this as a Claimant's

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1 Exhibit, Mr. Shafner. Is that correct?

2 MR. SHAFNER: Yes, sir.

3 THE JUDGE: Now, Mr. Beane, do you have any
4 objection?

5 MR. BEANE: I have no objection, your Honor.

6 THE JUDGE: All right. Do you have anything
7 further on that objection, Mr. Johnson?

8 MR. JOHNSON: No.

9 THE JUDGE: I'm going to admit this as a
10 Claimant's Exhibit. This may be admitted as Claimant's
11 Exhibit 12.

12 (Whereupon, the document was
13 marked for identification as
Claimant's Exhibit No. 12.)

14 (Whereupon, Claimant's Exhibit
No. 12 was received in evidence)

15 THE JUDGE: I notice that it is originally
16 considered during our pre-hearing conference as an employer
17 exhibit.

18 BY MR. SHAFNER:

19 Q Doctor, in that report -- the records that
20 you examined were suggestive of the connection with the
21 man's asbestos exposure?

22 A I don't believe that those are my words.
23 That's your interpretation of my words and I would like to
24 be able to use my own wording on this.
25

1 Q Well, I had trouble following that. Where
2 you say, the records, however, although suggesting by
3 reason of findings of pulmonary fibrosis by x-ray and
4 occupational history of exposure to asbestos, the possibility
5 of asbestosis, I take it, Doctor, that those findings
6 did suggest to you the diagnosis of asbestosis in Mr.
7 Sobolewski?

8 A The suggested the condition of asbestosis
9 to be considered in the differential diagnosis.

10 Q And as I understand your opinion, it did not
11 definitely establish that diagnosis, in your opinion. It
12 was merely suggested to you?

13 A Suggested --

14 Q Is that a fair summary of what your opinion
15 is, sir?

16 A I think my words are pretty explicit. It
17 said that although suggesting the possibility of asbestosis,
18 they did not definitely establish that diagnosis and then
19 I went on to give the reasons why it didn't establish that
20 diagnosis and that in the absense of establishing that
21 diagnosis, I couldn't assume any causal connection between
22 this cancer and asbestosis if that condition wasn't diagnosed.

23 Q As I understand your opinion then, Doctor,
24 it's that you can not rule it in or rule it out?

25 Is that a fair summary of what your opinion is?

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1 A No, that isn't a fair summary. Based upon
2 the evidence presented to me, there is no asbestosis shown
3 in this man and I can accept that diagnosis even though he
4 had an occupational history of exposure to asbestos.

5 Q And even though the findings which you now
6 state in this written report, Doctor, you state are suggestive
7 of asbestosis?

8 A Well, again, the word suggestive is yours,
9 not mine. I said suggesting a possibility. I didn't say
10 suggestive of. I said suggesting a possibility.

11 It wasn't established.

12 Q But you do acknowledge then that this man's
13 condition could have been caused by his exposure to
14 asbestos?

15 A If he had pulmonary asbestosis. If he
16 didn't have pulmonary asbestosis, I could not connect it
17 causally to that.

18 Q Doctor, can you make a diagnosis -- you can't
19 tell us for sure that that man did not have asbestosis?

20 A Well, I can't tell for sure that the man
21 didn't have a host of medical conditions.

22 Q Excuse me, Doctor. You can't diagnose it
23 no, can you, Doctor?

24 A Rule out a possibility based upon what we
25 have.

1 Q As a matter of fact, there's even an x-ray
2 taken by the employer which states that he probably had
3 asbestosis, based on an x-ray which you never examined. Is
4 that correct?

5 A There's an x-ray in which somebody put down
6 an opinion probably as asbestosis. That doesn't establish
7 a diagnosis.

8 Q Well, do you disagree with that opinion?

9 A I disagree in the sense, as I expressed in
10 my report, that the medical findings in this case do not
11 allow for the diagnosis of asbestosis because they never
12 showed that this man had asbestosis.

13 Q Do you know even though -- there was evidence
14 that -- of asbestosis. There wasn't sufficient evidence
15 for you to make a diagnosis. Is that correct?

16 A This is your interpretation, not mine.

17 Q Well, I'm asking you --

18 A That's not correct. The medical record did
19 not establish any findings of asbestosis of definite degree
20 enabling that diagnosis. The possibility was raised and
21 I can't exclude the possibility.

22 Q Now, Doctor, in order for you to make a more
23 definitive diagnosis, would it be important to look at the
24 x-rays?

25 A Not in this situation. The x-ray findings

1 by themselves are not pathognomonic of asbestosis and to
2 me the most important finding was that of the pathologist
3 who had the opportunity to examine lung tissue.

4 Q Now, Doctor, to get away from the question of
5 asbestosis for a moment, sir, we come to the question of
6 lung cancer. I take it you acknowledge the relationship of
7 the two and what you need to make the diagnosis that the man
8 has lung cancer is probably or reasonably caused by his
9 exposure to asbestos.

10 A Findings enabling the diagnosis of pulmonary
11 asbestosis.

12 Q Can you have a man who has lung cancer without
13 having asbestosis?

14 A Well, you can have a man with lung cancer
15 without the diagnosis of asbestosis, certainly.

16 Q Can you have a man with lung cancer as a
17 result of asbestos exposure without also having the diagnosis
18 of asbestosis?

19 A Well, this is an assumption that I can't
20 make, that the man's lung cancer is the result of asbestos
21 unless he has asbestosis. It's a necessary part of the
22 chain of events.

23 Q I see.

24 Is there any medical authority to substantiate
25 that opinion?

1 A Well, this is my opinion after reviewing the
2 literature which I have in this kind of situation.

3 Q Are there any authorities that you could
4 refer us to?

5 A Not particularly. I don't know specifically,
6 no. I don't remember the name of the articles.

7 Q Doctor, it's not your opinion that asbestosis
8 caused this lung cancer, is it?

9 A It's my opinion that asbestos inhalation
10 sufficient to cause pulmonary irritation and response
11 manifested by asbestosis can be accepted medically as a
12 contributing factor in some way, we don't know how, to the
13 production or hastening of lung cancer in such an individual.

14 Q It's not the asbestosis that causes the
15 lung cancer, it is the asbestos fibers inside the lung
16 that causes it. Is that correct?

17 A That's right.

18 Q Okay. So it is the asbestos that causes
19 both conditions, asbestosis and lung cancer.

20 A Yes, correct.

21 THE JUDGE: Is there any further redirect
22 examination, Mr. Beane?

23 MR. BEANE: Just one question, Doctor.

24 REDIRECT EXAMINATION

25 BY MR. BEANE:

1 Q Is there any evidence in the hospital
2 records to indicate that any asbestos fibers were found in
3 this man's lung?

4 A No.

5 MR. BEANE: Nothing further.

6 THE JUDGE: Any further recross examination?

7 RECROSS EXAMINATION

8 BY MR. JOHNSON:

9 Q The man is diagnosed as having asbestosis.
10 He has been working with asbestos over a period of years.
11 He inhaled the asbestos fibers just like air would contribu
12 toward lung breakdown. Would it not?

13 A No. That is not so.

14 Q You say that inhalation of asbestos in
15 1969 has more of an effect than asbestos of the same amount
16 inhaled in 1973?

17 A In conditions such as asbestosis, if
18 asbestosis is diagnosed in '73 or lung cancer is diagnosed
19 in '73, in association with asbestos, yes.

20 Q So that everything is contributory --
21 inhalation or it?

22 A No, I didn't say that. There's a long
23 incubation period between --

24 Q The development of cancer --

25 A May I finish?

1 There's a long incubation period between
2 the development of asbestosis and the development of lung
3 cancer in association with asbestos inhalation. It is not
4 the fiber that is inhaled the day before the man's condition
5 is diagnosed or a few weeks. It is the fiber that was
6 inhaled years ago. This is a reaction of the body to this.
7 It isn't an overnight thing. It isn't a matter of a few
8 weeks. It's a matter of months to years of the development
9 of scar tissue and irritation. So, from a medical point of
10 view, it is not the recent inhalation which causes the
11 problems it's the past inhalation.

12 Q The past plus the present. You can't
13 separate the fact that he is inhaling the same amount of
14 asbestos in 1973 from what he inhaled in '72 or '71 or
15 '69. It's an overall development of the disease. Isn't
16 that true?

17 A No, that's not true.

18 Q You mean that --

19 A May I finish?

20 The inhalation of asbestos itself does not
21 produce any immediate effects. It's the fibers which land
22 and because they land there over a period of months to
23 years could do ill effects. So, therefore, the inhalation
24 of something on Monday is not going to have any effect on
25 the individual on Friday or a week from Friday or a month

1 from Friday. It's the inhalation of the fibers years ago
2 which did it.

3 Q How can you say -- I understand that it's an
4 accumulative effect on the lung. Inhaling asbestos fibers
5 might produce or cause a cancer of the lung eventually.
6 Is that right?

7 A Not necessarily, accumulate. If it's a
8 progressive one over a period of many, many years.

9 Q I understand. But the inhalation of those
10 things -- of those fibers could cause a congestion or
11 lesion of the lung, is it not?

12 A It's the inhalation of the fibers which
13 by their very presence exert and irritate and have an
14 effect upon the lung and eventually cause the lesions
15 that are found.

16 Q That's right.

17 How can you say the inhalation in 1973 had
18 no effect at all while the 1965 might have had some effect?
19 Are you saying that that was when it started?

20 A Well, if I may use an analogy, with the
21 incubation of mumps it is approximately three weeks. If
22 you would get exposed to an individual with the mumps,
23 three weeks before you come down with the symptoms, this
24 is the virus that causes symptoms, not the exposure to an
25 individual the day you come down with it or the day before.

1 you come down with it or two days before you come down with
2 it or three days. When one has asbestosis, pulmonary
3 lesions from it or cancer from asbestos, it is the particular
4 fiber or fibers which were inhaled and implanted in the
5 lung many years ago. The incubation period in these
6 diseases is a year. The incubation in mumps is three weeks.
7 So we're talking about a medical incubation period, of
8 which we can point to the irritative or unsighting element
9 that happened months to years before the diagnosis becomes
10 apparent, not days to weeks before it becomes apparent.

11 Q So that this man was exposed to asbestos
12 for twenty years. This is the first inhalation of it that
13 caused all the trouble. Is that right?

14 A I'm --

15 Q Other exposures had no effect. Is that
16 what you're saying?

17 A I'm saying that the studies indicate that
18 the incubation period for asbestosis and lung cancer
19 particularly associated with asbestosis, it's in the range
20 of twenty to thirty years and it is the exposure of the
21 twenty to thirty years previously not the exposure of the
22 twenty to thirty days prior to that.

23 Q Is the twenty to thirty days prior also
24 contributory until the breakdown?

25 A Well, all I'm giving is an opinion based upon

1 reasonable medical certainty and probability and my opinion,
2 it is unlikely and improbable that an exposure in an
3 individual who has lung cancer, if it's associated with
4 asbestosis, that the recent exposure has played any role
5 in the condition. It is the past exposure.

6 Q Do you have any medical authority to say
7 that it is not a progressive condition, asbestosis accumula
8 over a period of years will cause the final breakdown?
9 Not that the last exposure had no effect?

10 A Well, the question you put before me is a
11 multiple barrel question and I would say that the answer to
12 it, first of all, I believe from my survey of the literatur
13 my experience and evaluation of cases that the asbestos
14 exposure of years previously is the exposure which is
15 indictable as the cause of asbestosis or of cancer of the
16 lung, not the exposure that occurs recently. It is not in
17 that sense accumulative bit that every single little piece
18 of asbestos that's inhaled over a period of time before a
19 condition is diagnosed played a role. There is no medical
20 literature which blames recent exposure, weeks, months, to
21 asbestos diseases in the individual. It's always the past
22 exposure. Now, the recent exposure, over the course of
23 years, add more to it.

24 Q That's what I am asking you. Can it not be
25 aggravated. Let's assume that the cause of it -- the

1 starting of it was a number of years ago and further
2 exposure is continued. Would that aggravate the condition?

3 A Further exposure over a past period, not
4 recent exposure. The exposure over years previously may
5 well have played --

6 Q Including the last exposure?

7 A No.

8 Q When do you stop -- when does he stop being
9 aggravated, when do the lungs stop being aggravated?

10 A First of all, one needs medical evidence
11 that there is aggravation; and secondly we stop -- I can't
12 give you a specific precise cutoff period in terms of
13 minutes, hours, days or weeks. I can only date it in
14 terms of relative amounts from what we know from medical
15 study which is in years. The asbestos exposure of years
16 previously which causes the trouble. Now, if an individual
17 has continued asbestos exposure and then continues to
18 live years after that exposure, that second exposure may
19 add to his problems.

20 Q Wouldn't you have to know something about
21 the intensity of it?

22 A Maybe the intensity, the exposure.

23 Q Let's assume that this man in this case
24 worked in an asbestos environment for all the time he
25 worked there. You say that the last week it had more of

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1 an effect, less effect, than the exposure three years ago?

2 A In this particular case with the evidence
3 presented before me that this man was in trouble in 1972,
4 in February of 1972, and that if this trouble were due to
5 asbestos, and again I can't state that specifically, it was
6 the asbestos inhaled many years previously not the asbestos
7 inhaled in the few months prior to '72; and that subsequently
8 the asbestos inhaled in '73 would have no role in this.

9 Q When did it stop having an effect? He did
10 the same work all along.

11 A Well, I didn't say that it stopped having
12 an effect. I said that the effect, that if one were to
13 measure the effect from asbestos inhaled in '73, you'd have
14 to wait until 1979, 1980, 1981 to see it.

15 MR. JOHNSON: That's all I have.

16 THE JUDGE: Do you have any further recross
17 examination, Mr. Shafner?

18 MR. SHAFNER: Just a few brief questions.

19 RECROSS EXAMINATION

20 BY MR. SHAFNER:

21 Q Doctor, did you examine any pulmonary
22 function tests?

23 A No.

24 Q Do you know if any were taken?

25 A I don't recall seeing any.

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1 Q Was there anything in the records that you
2 found which would be inconsistent with the diagnosis of
3 asbestosis?

4 A For clarification, --

5 Q I think you can answer that yes or not.

6 A The man could have had asbestosis so,
7 therefore, the record was not inconsistent with the
8 diagnosis.

9 Q Nothing in his record is inconsistent with
10 the diagnosis of asbestosis?

11 A No.

12 Q And was there anything in the record which
13 would be inconsistent with forming a causal connection
14 that his carcinoma of the lung was caused by the exposure
15 to asbestos?

16 A Yes.

17 Q What was that?

18 A The absence of the definitive diagnosis of
19 finding of asbestosis.

20 Q And if that finding had been made or
21 accepted by you, sir, then would you then relate the lung
22 cancer to the asbestos exposure?

23 A If I accepted a diagnosis, I was able to
24 reach the diagnosis of asbestosis in this man and then I
25 would say that there would be reasonable causal connection

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1 between the lung cancer and the asbestosis.

2 Q Thank you very much, sir.

3 One last question. Did you supply with us
4 directly or to Attorney Beane copies of your publications?

5 A Could I supply you copies of my publications?

6 Q Could you give a copy to Attorney Beane and
7 tell us what issue --

8 A Well, I have written over a hundred articles
9 and six books and I can't supply you --

10 Q Does that mean specifically with --

11 A The asbestos?

12 Q Yes. In Trial Magazine.

13 A Yes, I can supply Mr. Beane with a photocopy
14 of that.

15 (Witness excused.)

16 (A luncheon recess is taken.)

17 THE JUDGE: Before beginning with your
18 first witness, Mr. Shafner, we will take a few preliminar
19 matters that we didn't have an opportunity to touch,
20 because we altered the procedure by stipulation and put
21 Dr. Sagall's testimony out of order.

22 The Insurance Company of North America, you
23 represent the Insurance Company of North America, Mr.
24 Johnson. I wonder could you give us the address. I don
25 think the record reflects the address of the carrier in

1 MR. BEANE: Well, it certainly might -- I
2 would have thought that General Dynamics would produce
3 other testimony.

4 THE JUDGE: Well, would there be any objection--
5 Mr. Johnson, there would be no question concerning those
6 costs?

7 MR. JOHNSON: No.

8 THE JUDGE: Mr. Shafner, I don't think it's
9 necessary to include that in the record.

10 MR. SHAFNER: Thank you very much.

11 That's all I have from Mr. Slep.

12 THE JUDGE: Any cross examination?

13 MR. BEANE: No.

14 MR. JOHNSON: No.

15 THE JUDGE: Thank you, Mr. Slep. You may
16 be excused.

17 (Witness excused.)

18 THE JUDGE: Call your next witness, Mr.
19 Shafner.

20 Whereupon,

21 HELEN BARBARA SOBOLEWSKI
22 was called as a witness, and having first been duly sworn,
23 was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. SHAFNER:

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1 Q Would you please state your full name?

2 A Helen Barbara Sobolewski.

3 Q And your address?

4 A 10 Comstock Avenue in Uncasville, Connecticut.

5 Q And you were married to the late Mr.

6 Sobolewski?

7 A Yes, I was.

8 Q There was one child in this marriage?

9 A That is correct.

10 Q How old is he?

11 A He's a son and he's thirty-one years old.

12 Q And do you recall when your husband started
13 working at Electric Boat?

14 A Well, he worked there back in the early
15 40's as a crane operator and I don't know, but he worked
16 there about five or six years and then he returned in
17 November of 1955.

18 Q And do you know what kind of a job he got
19 there in 1955?

20 A Yes. Well, at times he referred to it as
21 a pipe coverer and sometimes he said they call us ladders.

22 Q Ladders, pipe ladders. L-a-g-g-e-r-s?

23 A Yes. Or pipe coverers.

24 Q Do you know what type of materials he worked
25 with?

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1 A He worked with asbestos.

2 THE JUDGE: Just a moment, Mr. Shafner.

3 Mr. Beane?

4 MR. BEANE: Objection. I don't think this
5 witness would have knowledge of the kind of material he
6 worked with.

7 THE JUDGE: In this regard, this is an
8 administrative hearing and the usual rules of evidence would
9 not apply. Hearsay is admissible. The only question is
10 whether or not hearsay is relevant. However, Mr. Shafner,
11 I'd like to remind you that even though hearsay is
12 admissible, it must be established that she has some basis
13 even for that hearsay and whatever that basis might be.
14 However, I'm going to have to rule -- overrule your
15 objection on that basis, Mr. Beane. As far as admissibility
16 is concerned, hearsay is admissible. I would like to
17 caution you, Mr. Shafner, that you must provide at least
18 some basis for her knowledge.

19 BY MR. SHAFNER:

20 Q What kind of materials did he work with?

21 A Well, what he told me and there were pieces
22 brought home, it was asbestos type material.

23 Q Did you ever see this material?

24 A Yes, I've seen pieces of it.

25 Q Where did you see it?

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1 A At home.

2 Q And who did his laundry?

3 A I did the laundry.

4 Q Did you ever see anything in connection with
5 his laundry?

6 A Yes. The type of work he was doing he wore
7 coveralls and he sometimes had two, one, two, three pair
8 a week depending on the type of work and how dirty they
9 got and I did the laundry and on a weekly basis and as a
10 rule when I came to the coveralls, I always shook them out
11 because I noted that the pockets were always filled with
12 white stuff and when I shook them out, I'd even get these
13 little slivers in my fingers. I sort of tried to go off
14 to the side of the porch and do all this shaking. I even
15 one time mentioned something to my husband. I said, do
16 you know, I shake them coveralls and I get these slivers in
17 my fingers and I had to try to even pull some of these
18 slivers out. And so he says, well, that's the material,
19 the stuff that I work with.

20 Q Did he tell you what that material was?

21 A Yes, he referred to it as asbestos.

22 Q Did there come a time when he went into the
23 hospital?

24 A Yes, on July 1st. My son's birthday. I'll
25 always remember it.

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1 Q Of 1973?

2 A 1973.

3 Q And is that the first time he was in the
4 hospital?

5 A Yes, to be hospitalized the first time in all
6 the years I was married to him.

7 Q And what was the problem at that time that
8 caused him to go into the hospital?

9 A Well, he told me he had a lump under his
10 arm and he went to see Dr. Wies and Dr. Wies sent him to the
11 hospital.

12 Q Now, he was hospitalized for some period of
13 time?

14 A From the first, he went in on a Sunday and
15 he was released on a Saturday, the same week.

16 Q Then did there come a time when he returned
17 to work?

18 A Well, he tried, I would say he tried. He
19 did go back. The end of July, he may have worked a couple
20 of days one week. Then he tried again. A couple of days of
21 the next week. But it was impossible. He couldn't -- he
22 couldn't work.

23 Q Then he was -- was he being treated during
24 this time?

25 A Yes, Dr. Wies.

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1 Q Dr. Wies?

2 A Dr. Wies. I took him to the office sometimes.

3 And then it got so that --

4 Q What kind of treatment was he getting from
5 Dr. Wies?

6 A He was giving him kymotherapy.

7 Q And then he went into the hospital again?

8 A Yes, in October.

9 Q And now -- do you know if any forms were
10 filled out for the insurance company?

11 A You mean like -- yes, yes.

12 Q Do you know who they were submitted to?

13 A No.

14 THE JUDGE: Just a minute. Did you have an
15 objection, Mr. Johnson?

16 MR. JOHNSON: I wanted to identify what
17 bills he said for the insurance company. I would like
18 whether they were group insured --

19 MR. BEANE: I would object to the relevancy
20 I don't know if this is relevant. If there's liability,
21 my brother can submit the bills and I'm sure that we can
22 concur.

23 MR. SHAFNER: The relevancy of this testimony
24 sir, is that General Dynamics had knowledge of the
25 injuries and illness which led to Mr. Sobolewski's death

1 It was simultaneously the illness and the death because the
2 forms were in fact submitted to them one was a--

3 THE JUDGE: As I stated a little bit
4 earlier, there's a wide leeway provided you with respect
5 to what evidence is admissible in the hearing of this
6 nature. However, broad general questions, Mr. Shafner,
7 are without respect to specific entities that you're
8 dealing with and also the basis of Mr. Sobolewski's
9 knowledge. I don't want to have useless information in
10 the record. I would like to have it be specific and if you
11 can pinpoint as to how she happens to know this.

12 BY MR. SHAFNER:

13 Q Can you tell us who paid for the medical
14 bills?

15 A I took care of all the paper work. I
16 submitted it to EB.

17 Q EB, meaning Electric Boat?

18 A Yes, to Electric Boat.

19 Q And did you submit them at the time you got
20 the bills?

21 A Pretty close. I mean they required death
22 certificates and other documents and so forth and I paid
23 all the bills. That's why I know it.

24 Q These documents you mentioned, were these
25 all submitted to Electric Boat?

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1 A Right.

2 Q In fact, did they pay some of the bills?

3 A Yes.

4 Q Who paid the rest?

5 A I paid the rest.

6 THE JUDGE: Are you making an effort to
7 establish the time of such submission? The nature of the
8 submission, as to whom it was addressed to --

9 MR. SHAFNER: Some of these documents are
10 already in evidence. For instance, one by Dr. Wies, one
11 from July and one from October. That evidence is already
12 in front of you. This is to corroborate the rest of it.
13 Everything was sent to Electric Boat and the bills that
14 were not paid, she paid for those. It establishes several
15 things. One is that all bills have not been paid, number
16 two, the company had notice of the injury; and number
17 three, --

18 THE JUDGE: Well, if you're relying on this
19 testimony to establish notice of injury, usually when we
20 establish notice, we usually have a time associated with
21 that notice.

22 MR. SHAFNER: On the -- that Mr. Slep --

23 MR. JOHNSON: At the time of these admissions

24 THE JUDGE: I'm going to ask you if you will
25 be more specific with this witness if you can with respect

1 to the time of submission. If you're relying on this
2 testimony, notice to the employer, notice of injury, I
3 assume that these documents will speak in argument towards
4 the question of date. You just said that you were relying
5 upon her submission of these to establish dates, and I
6 don't see how you can rely on her testimony for that purpose
7 unless you use a date because she could have submitted other
8 documents than these here and they could be submitted on
9 other dates and are reflected on these documents here.

10 BY MR. SHAFNER:

11 Q You wouldn't have any independent recollection
12 of the dates on which you submitted these forms to Electric
13 Boat?

14 A Within a very reasonable period of time.
15 I mean if something came up, I tried to take care of it
16 within the week.

17 THE JUDGE: Mr. Johnson, I don't want to
18 be critical of your approach here, but if you'll just
19 address the bench, I'd appreciate that. Otherwise the
20 record is not going to be -- reflect what you had to say.

21 What was your question, Mr. Johnson?

22 MR. JOHNSON: I merely asked if these were
23 submitted after the hospitalization of 1973? That was
24 the first time she received the bills.

25 THE JUDGE: Why don't you save it for cross

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1 examination.

2 You'll be able to bring out your facts.

3 MR. SHAFNER: I have no further questions.

4 THE JUDGE: Do you have any cross examination,

5 Mr. Beane?

6 CROSS EXAMINATION

7 BY MR. BEANE:

8 Q Did your husband tell you that from time
9 to time he had a chest x-ray while he worked at the plant?

10 A No.

11 Q He never told you about that?

12 A No.

13 Q So you have no personal knowledge about
14 that -- you had no way of knowing --

15 A No.

16 Q Now, did your husband tell you in May of
17 1972 that following an examination at the plant, he had
18 been told to seek medical attention?

19 A No, he didn't.

20 Q Did he tell you that following a medical
21 examination in January of 1973 that he had been advised
22 by the plant doctors to seek medical attention?

23 A No, he didn't.

24 MR. BEANE: I have no further questions.

25 THE JUDGE: Mr. Johnson?

1 BY MR. JOHNSON:

2 Q The bills that you talked about were all
3 submitted after the hospitalization in '73?

4 A Right.

5 Q There were no bills before that that had
6 to be submitted. Is that right?

7 A No.

8 MR. JOHNSON: Okay.

9 THE JUDGE: Any further redirect examination?

10 MR. SHAFNER: No.

11 THE JUDGE: Mrs. Sobolewski you may be
12 excused.

13 (Witness excused.)

14 Whereupon,

15 ALLEN D. ELEAZER

16 was called as a witness, and having first been duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SHAFNER:

20 Q Do you work at Electric Boat?

21 A That is correct.

22 Q What is your job there?

23 A Lagger, pipe coverer.

24 Q And did you know Mr. Sobolewski?

25 A The first day I worked with him.

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1 Q And how long did you work with him?

2 A About seventeen years.

3 Q And how did your job compare with Mr.
4 Sobolewski's?

5 A Well, we're both doing the same kind of
6 work.

7 Q And can you tell us what the job consisted
8 of?

9 A Well, what we do, we put insulation on
10 everything that would get so hot, we put insulation on to
11 keep the heat down and then -- we put asbestos on the
12 vessel to keep the heat down.

13 Q What parts of the vessel would you put
14 it on?

15 A On the part that called for insulation,
16 whatever had to be insulated, about the vessel.

17 Q Can you tell us what parts of the boat
18 that would include?

19 A Well, the engine room and AMR1 Reactor.

20 Q What does AMR1 mean?

21 A That's a machine space. That's different
22 parts of the sub that operates in operation.

23 Q What about pipes?

24 A Pipes. Well, it would be pipes in there
25 and sometimes it would be some heavier vessels in there.

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1 Q What were the different kind of materials
2 that you worked with?

3 A Well, we worked with about nine different
4 kinds.

5 Q Tell his Honor.

6 A Asbestos, unabestos (sic), rubber --

7 Q What's in unabestos, do you know?

8 A It's asbestos in all of them. Now, cork
9 it don't have it. And rubber, it don't have it.

10 Q Tell us about the others that do have it.

11 A Well, asbestos, kalo --

12 Q That's k-a-l-o?

13 A Right. It has it. Water repellants, it
14 has it.

15 Q Could you estimate how much of the material
16 that you worked with contained asbestos?

17 MR. BEANE: Objection.

18 THE JUDGE: What is the basis of your
19 objection, Mr. Beane?

20 MR. BEANE: I'm not sure -- this is highly
21 technical material. Much of it is manufactured to Navy
22 specifications. I don't imagine this witness would have
23 any way of knowing what the percentage of asbestos is.

24 MR. SHAFNER: That wasn't the question.

25 THE JUDGE: What was your question, Mr. Shafner?

1 MR. SHAFNER: What percentage of the materials
2 that they work with contain asbestos? Not what the content
3 percentage is.

4 THE JUDGE: I understand the question to be,
5 Mr. Beane, to be of all the types of materials that he used,
6 approximately, I guess, what percentage of those did have
7 some element of asbestos in them. Is that correct?

8 MR. SHAFNER: Yes, sir.

9 THE JUDGE: Is that your understanding of
10 the question also, Mr. Beane?

11 MR. BEANE: Yes, it was.

12 THE JUDGE: Mr. Johnson?

13 MR. JOHNSON: No.

14 THE JUDGE: I think in the light of this
15 testimony thus far, I think the answer would be admissible
16 on that specific issue, not necessarily what the percentage
17 is in each individual type. I don't think he would be
18 qualified in that area. You may answer.

19 A I'd say ninety percent. It's eighty-five or
20 ninety percent.

21 Q Was any of the materials -- question withdrawn
22 Were these materials wet or dry?

23 A I'd say eighty percent of it had to go on
24 dry.

25 Q What about when they went on wet, what did y

1 do to get the wet substance? Tell us what you did?

2 A Well, the one that we have to make up is a
3 powder form. We have to pour it out in a vat.

4 Q What did you pour into the vat?

5 A Asbestos powder. It's a powder.

6 Q How was it packaged?

7 A In a forty, fifty, sixty pound bags.

8 Q And how would you get the powder from the bags
9 into the vat?

10 A Just clip the top off the bag and pour it
11 in there.

12 Q When you do this, were you wearing any kind
13 of protective kind of clothing?

14 A No.

15 Q When you would pour it into the vat, what
16 would happen to the air?

17 A The dust would rise up.

18 THE JUDGE: Mr. Shafner, I don't think the
19 record is going to be quite clear. It may be clear to you
20 and it may be clear to the witness, perhaps to counsel,
21 but I don't think it is quite clear to me exactly what
22 asbestos is contained in these different types of materials
23 used. Now, you slipped into the wet asbestos as distinct
24 from the dry asbestos. I hope you go into it a little bit
25 more. Ask him, if you will, or maybe I ought to ask a few

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1 questions a little later on. Maybe if I alert you at this
2 point, I won't have to and we can shorten this up a little
3 bit.

4 BY MR. SHAFNER:

5 Q What was in the bags of powder that you
6 poured into the vats?

7 A It was dry asbestos. And if we put it on a
8 fitting like we call it, an air bolt (sic). It had rough
9 joints in it. We would have to fix that up as a mud. We
10 would smooth that joint over. Make it nice and smooth where
11 you can cloth it out and it would be knotty and bumpy. Any
12 crack we would put that on and cover it up and make it nice
13 and smooth where you could insulate it and make a good job
14 of it. That's what the powder form is for.

15 MR. SHAFNER: I think a great amount of it
16 is when they are mixing it up.

17 THE JUDGE: I think it is clear from his
18 testimony.

19 BY MR. SHAFNER:

20 Q Now, in working with the dry materials, dry
21 asbestos materials, could you tell the Judge what you did
22 to work with it? What kind of a process did you use on
23 those dry asbestos materials?

24 A When you -- the process you can use on it and
25 then we put it on there and wire it on.

1 Q Well, how would you get it on?

2 A It is the foam fitting type. We put it
3 around the pipe and put bands or wire to hold it on. The
4 blanket type. We would crawl in the hole and push it up in
5 the hole where we have to put it. Maybe we have five or six
6 inches of space between our face and the materials that we
7 are putting on.

8 Q When you use the blanket type asbestos, what
9 would happen to the asbestos fibers in the blanket as you
10 were putting it on?

11 A Well, nothing that would do. You would have
12 to inhale it.

13 Q In other words, it would come loose?

14 A It would come loose --

15 MR. BEANE: Objection.

16 A -- it would be a dust.

17 THE JUDGE: Just a moment.

18 Mr. Beane?

19 MR. BEANE: Well clearly to the form of the
20 question. I don't think he should lead the witness.

21 THE JUDGE: I am going to caution you a
22 little bit on that, Mr. Shafner. I realize that it is not
23 the best of conditions here. However, if you will try to
24 let the witness respond to the question.

25 BY MR. SHAFNER:

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1 Q You were starting to tell his Honor what would
2 happen to the asbestos in the blankets when you put the
3 blankets on?

4 A Well, you come out in a dust form, powder,
5 fragments of it in the air and everywhere. We have had
6 precipitators down there to check to see how much you would
7 be inhaling. Men would bring down precipitators and stuff
8 to get what flies through the air.

9 THE JUDGE: Maybe we could back up a little
10 bit. I didn't quite catch that word myself.

11 THE WITNESS: Something like a precipitator.

12 MR. SHAFNER: Oh, precipitator.

13 THE WITNESS: Yeah. To see how much of it
14 is in the air.

15 THE JUDGE: Was there a device of some kind
16 that would tell you that?

17 THE WITNESS: That's right. They would
18 measure that to see how much was in the air.

19 BY MR. SHAFNER:

20 Q So when you were cutting the other kind of
21 blankets that went around the pipe, when you put those on,
22 how would you cut them?

23 A Cut them with a saw.

24 Q Where would you cut them?

25 A We would cut them sometimes in the shop.

1 Most of my cutting was always on the barge. We didn't get
2 to the shop very much. We always worked on the barge.

3 Q When you would cut the blocks of asbestos--
4 is that what you call it, blocks of asbestos?

5 A Yes.

6 Q -- what would happen to the air?

7 A There would be a lot of dust there. Around
8 the whole place, from the saw.

9 Q And what did the dust contain, dirt from the
10 ground?

11 MR. BEANE: Objection.

12 A No. It would just give dust --

13 THE JUDGE: Just a moment.

14 Mr. Beane?

15 MR. BEANE: Again, the question is leading.
16 He can certainly ask what was the dust. I object to the
17 leading part of it.

18 MR. SHAFNER: I'll withdraw the question.

19 THE JUDGE: The question has been withdrawn.

20 BY MR. SHAFNER:

21 Q Would you tell the Judge what was the dust
22 that was coming up when you were cutting the asbestos?

23 A It would be asbestos dust.

24 Q Now, did any of your work involve repairs or
25 overhaul?

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1 A Yes.

2 Q What would that consist of?

3 A It was about fifty-fifty. Fifty percent of
4 our work would be ripping off old insulation.

5 Q When you rip off old insulation, how would
6 you do it?

7 A Well, you would take a bar of any kind and--
8 scraper, a pair of pliers, a screwdriver and go in and go
9 digging into it and rip it off.

10 Q When you would do this, what would happen to
11 the air where you were working?

12 A Well, if there was over four men in the
13 compartment it was hard to see one another over twenty feet
14 apart. There would be so much dust flying.

15 Q And what was the condition of the old asbestos
16 that you were ripping out

17 A I would say about thirty percent of it would
18 be mostly going back into a powder form of flying type,
19 dust.

20 Q What if it was the asbestos material that
21 was originally wet had been put on, what would be its
22 condition?

23 A Well, it would go back to powder too because
24 ain't nothing going to come back wet after it has been
25 through all of that steam.

1 Q You mentioned the barge before. What
2 operations went on at the barge?

3 A Well, we made a small amount of fittings and
4 we would make up fifty or sixty percent of our asbestos mud
5 on there. We would cut fifty or sixty percent of our
6 asbestos blankets on there.

7 Q Where would you have lunch?

8 A Same place we cut the material.

9 Q Was there any operation going on while they
10 were having lunch there?

11 A Sometimes.

12 Q By the way, who did you have lunch with?

13 A Who did I have lunch with?

14 Q Who did you eat lunch with?

15 A Just our regular working crew in there.

16 Q How about Mr. Sobolewski?

17 A Well, he was sitting right there. He was
18 one of the ones that was eating.

19 Q Now, in the years that you have worked
20 there, were you given any type of equipment there?

21 A Nope. The first fellow, he wasn't given
22 nothing.

23 Q What type of clothing?

24 A He wasn't giving no clothes out.

25 Q Did there come a time when they gave you some

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1 equipment?

2 A Well, after we lost about fourteen men, they
3 started giving out coveralls, and a few respirators when
4 they can get them. That's what they told us. I didn't do
5 much work on the first shift so it wasn't no convenience
6 for us at all on the second shift. We had to get what we
7 can find laying around.

8 Q When did they start giving you respirators
9 and when did you start wearing them?

10 A Let's see, it must have been some time in
11 '72. After we lost twenty men.

12 Q And how about Mr. Sobolewski, do you recall
13 when he was given a respirator?

14 A The same time as I was.

15 Q Around 1972?

16 A That's right.

17 Q And how often did he wear it, Mr. Sobolewski
18 wear it?

19 A I seen him wear it fifty percent of the time,
20 but the rest of the time you couldn't wear a respirator
21 because some of the holes you had to crawl in were only
22 eight or ten inches wide. You can't go in there with a
23 big respirator when you can only get your head in there.

24 Q Now, between you and Mr. Sobolewski, were
25 there different jobs that you had to perform?

1 A Well, the tighter the hole got, the smaller
2 the man. So he was smaller than I was. I worked the job
3 as far as I could and then he would come in and carry on
4 as far as he can make it.

5 Q Do you know how big Mr. Sobolewski was?

6 A Well, he first started out at a hundred and
7 forty and then he dropped down to a hundred and twenty and
8 then the last time he must have been about, when he was
9 working, about a hundred and fifteen.

10 Q Did he have any specialty as a pipe coverer
11 or a pipe logger?

12 A Yep. He was a working leader.

13 Q And what did he do?

14 A Well, that meant if I didn't know how to
15 do nothing, he had the privilege to come over and show me
16 how to do it. If there was a hole, a job could be finished
17 and I couldn't get in to finish it, he had the right without
18 the supervisor or anybody's permission to come in there
19 and finish out that job and no one else can get into it.

20 Q At the time when you were working with
21 asbestos materials on the boats, were there other tradesmen
22 working in the same area?

23 A To start off with, according to where we are
24 working at, some places there are other trades. When we
25 get a hot reactor there is no other trade in there but a

1 lagger unless there is a painter or a cleaner.

2 Q When the asbestos material was being pulled
3 off the boat, either being repaired or an overhaul, how
4 would it get cleaned up?

5 A Well, they would --

6 Q What would happen to the old asbestos
7 materials?

8 A We would clean up the larger stuff.

9 Q How would you clean it up?

10 A We would reach out and grab it by hand and
11 put it in a plastic bag.

12 Q Is this why you were wearing a respirator?

13 A Well, at times we wore respirators in there
14 and it was up underneath there and we couldn't wear a
15 respirator. We can't go in between the pipes with a
16 respirator on.

17 Q How old are you, Mr. Eleazer?

18 A Fifty-nine.

19 Q Are you still working there?

20 A No.

21 Q Why not?

22 A I ain't able no more. I got scar tissues
23 along and my breath is short. I can't be around no more
24 dust, no painting, nothing where fumes are.

25 Q When did you leave?

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1 A July of '75.

2 MR. SHAFNER: I have no other questions.

3 THE JUDGE: Cross examination, Mr. Beane?

4 CROSS EXAMINATION

5 BY MR. BEANE:

6 Q Sir, you are saying you left in July of '75?

7 A Right.

8 Q You worked up until the time of the strike?

9 A I worked up until the time of the strike.

10 Q And have you been recalled?

11 A No.

12 Q You haven't been recalled?

13 A No.

14 Q Would you go back if you were recalled?

15 A If I were recalled and did get something

16 that I could do, I would go back.

17 Q I see.

18 But you haven't been with the plant since

19 July?

20 A No.

21 Q Were you in the Medical Department?

22 A I was in the Medical Department.

23 Q You were there?

24 A Right.

25 Q Now, you told us that since 1972 respirators

1 have been provided to every man. Is that correct?

2 A Every man, at time.

3 Q And do I understand that you tell us today
4 that there are places where you can't use the respirator?

5 A That is correct.

6 Q And what are these places that you can't use
7 the respirators?

8 A You go up one of these SS11's. You've got
9 nine inches of clearance crawling around these SSTG's.

10 Q What is an SSTG?

11 A That's steam turbine.

12 Q This is on a submarine?

13 A A submarine.

14 Q And what you are telling me is that you
15 don't have enough room --

16 A You don't have enough room. You've got
17 nine inches, right?

18 Q Yes.

19 A Take a ruler and measure your head and see
20 how large it is and then add four more inches to it.

21 Q So you are telling us that you crawled into
22 this space that was nine inches?

23 A That is right.

24 Q Your whole body?

25 A My whole body. I can go through a nine inc

1 hole that was twenty-seven inches wide.

2 Q And you say in this area you can't wear a
3 respirator?

4 A You can't wear a respirator in a place like
5 that.

6 Q Okay.
7 Did you have x-rays at the Medical Department
8 every year?

9 A Every six months.

10 Q Every six months.

11 A They sent me down every six months.

12 Q And how long have you been having x-rays, sir?

13 A Ever since 1950, ever since I come there.

14 Q Ever since you started work --

15 A Ever since I started work at EB.

16 Q You have been having x-rays?

17 A Once a year up until about '71 and then
18 we're suppose to have them about every six months.

19 Q I see. Since then you have had them every
20 six months.

21 A Right.

22 Q And since '72, you've had respirators?

23 A Yes.

24 MR. BEANE: I have no further questions.

25 CROSS EXAMINATION

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1 BY MR. JOHNSON:

2 Q You continued to work with Mr. Sobolewski
3 right up until the time he went into the hospital?

4 A That's right.

5 Q And it was the same type of work that you
6 had been doing?

7 A Same type.

8 MR. JOHNSON: That's all I have.

9 THE JUDGE: Any further redirect examination,
10 Mr. Shafner?

11 MR. SHAFNER: No.

12 THE JUDGE: You may be excused, Mr. Eleazer.
13 Thank you.

14 (Witness excused.)

15 THE JUDGE: You may call your next
16 witness.

17 MR. SHAFNER: May I just have a minute?

18 (Discussion off the record.)

19 MR. SHAFNER: That's all we have at this
20 time, your Honor.

21 There is one more thing and that is the
22 deposition of Dr. Lilis, whose name appears on the medical
23 report that is in evidence from Mt. Sinai --

24 THE JUDGE: Are you requesting permission to
25 depose her after the hearing?

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1 (A short recess is taken.)

2 Whereupon,

3 ROBERT SECOR

4 was called as a witness and, having first been duly sworn,
5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BEANE:

8 Q For the record, will you state your name
9 and address, please?

10 A My name is Robert Secor. I live at 131
11 Ridgewood Drive in Mystic, Connecticut.

12 Q By whom are you employed, sir?

13 A General Dynamics Electric Corporation.

14 Q In what capacity are you employed?

15 A Chief of environmental control.

16 Q And as Chief of environmental control, can
17 you tell us briefly what your job is?

18 A We study the various work functions to
19 determine whether or not there are any hazards associated
20 with those work functions.

21 Q Are you familiar with the fact that on the
22 submarines asbestos is used or it has been used?

23 A Yes, sir.

24 Q And would you tell me how long its been
25 compulsory, if it has been compulsory for the employees

1 that are working on asbestos to use respirators?

2 MR. SHAFNER: Is that a leading question?

3 THE JUDGE: You're objecting on that basis.

4 I take it you're rephrasing it, Mr. Beane?

5 BY MR. BEANE:

6 Q Mr. Secor, is there -- are there some safety
7 precautions that have been set up for the safety of people
8 working with asbestos?

9 A Yes, sir.

10 Q What are those, sir?

11 A The regulation on asbestos s published in
12 the Federal Register in the United States Department of
13 Labor.

14 Q And are you familiar with that regulation?

15 A Yes, sir.

16 Q And when did those go into effect, sir?

17 A The emergency regulation on asbestos was
18 published on December 7th, 1971.

19 The proposed regulation came out in January
20 of 1972.

21 Q And as a result of those regulations, what
22 did your department do?

23 A Well, then there was a final regulation which
24 made the application of certain work functions mandatory
25 under the law in July of 1972. It became a requirement for

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1 all those people who were involved with the use of asbestos
2 to follow the number of precautions as designated in the
3 regulations.

4 Q Can you tell us what those requirements are?

5 A The regulation required that the job function
6 be monitored to determine the level of air borne asbestos
7 dust; the regulation requires that exceeding certain levels
8 of air borne dust, certain types of respirators must be
9 worn; it specifies that coveralls must be worn. It calls
10 for, I want to say periodic medical examinations but I think
11 I could just stay with the x-rays, I think that's the
12 primary consideration as far as the medical aspect is
13 concerned. It requires a certain amount of ordinary
14 housekeeping to insure that air borne levels of asbestos
15 dust will be maintained at a minimum level.

16 Q Now, with regard to these regulations were
17 there some changes made in Electric Boat?

18 A Yes. All of these requirements were put into
19 effect at that time.

20 Q I see.

21 And this includes the respirators?

22 A Yes, sir.

23 Q Does it also include some blowers for -- or
24 exhaust systems?

25 MR. SHAFNER: Excuse me. Let me interrupt

1 just a moment.

2 THE JUDGE: Do you have an objection, Mr.
3 Shafner?

4 MR. SHAFNER: He said all of these things
5 went into effect at that time. I want him to clarify at
6 that time.

7 A The time that the regulation became mandatory
8 which was July, 1972. There were a number of changes that
9 were made especially in the lagging shop and the asbestos
10 barge. The first of these which I became familiar with or
11 I had anything to do with was around 1968 and at that time
12 individual exhaust ventilators were installed at all the
13 workbenches in the asbestos shop. At a later date, the
14 asbestos barge, which is the wet dock working barge, was
15 replaced totally. All new systems were installed. Comple
16 ventilation systems, all saws, benches, the "mud box"
17 preparation of mud, each of these had an individual
18 ventilator which was designed to capture the maximum amount
19 of asbestos dust that would be generated. At somewhat of
20 a later time, about 1972, perhaps, the asbestos lagging
21 shop was completely renovated with all new ventilation
22 systems rearrangements, storage areas, all mechanical saw
23 and this type of thing were ventilated individually.
24 Cycone (sic) collectors were installed in those ventilati
25 systems; bag houses so that the asbestos air borne dust

1 is reduced to an absolute minimum.

2 Q Do you have facilities to determine the level
3 of air borne dust?

4 A The level of --

5 Q Air borne dust.

6 A Yes, sir.

7 Q And can you tell me whether or not the
8 monitoring that you do comply with the federal standards?

9 MR. SHAFNER: I object. He's leading -- does
10 he want to say what the levels are --

11 THE JUDGE: I think the first question you
12 asked whether or not levels are monitored. Is that correct?

13 And the next question you asked whether or
14 not he could tell what levels exist. Is that right?

15 MR. BEANE: I think the question was whether
16 or not these levels comply with the federal standards.

17 THE JUDGE: I think that's an appropriate
18 question, Mr. Shafner. Apparently that's his position at
19 the place of employment. It seems to me that he would be
20 in a position to verify whether or not the federal standards
21 would be complied with.

22 THE WITNESS: Well, I think it's important
23 to understand the type of systems that we designed initially.
24 There have been a number of changes in the requirements for
25 the levels of acceptable dust and when we initially started

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1 it seems to me it was five million fibers per cubic foot.
2 When the first emergency regulation came out, it was
3 reduced to twelve fibers per milliliter or two million
4 particles per cubic foot. When the final regulation came
5 out, it was reduced to five fibers per milliliter with a
6 proposed change of July, 1976 to two fibers per mill
7 milliliter. Well, since I had been doing some asbestos
8 studies prior to that time, our preliminary engineering
9 designs were made to try to achieve one fiber or less so
10 this is the criteria that we established in engineering
11 these systems.

12 Q Are there fibers per milliliter?

13 A Per milliliter.

14 Q How many million parts per, I guess the
15 cubic feet of air?

16 A I'm sorry. But there's been a change from
17 the cubic foot concept to straight metric cubic centimeter
18 or milliliter system. I couldn't make the transition for
19 you off the top of my head. Our monitoring has indicated
20 that these systems have been extremely effective. To
21 specify whole numbers, you would have to consider the
22 individual job function, whether sawing or cutting
23 or whatever it happens to be. Just a blanket number is
24 really meaningless.

25 Q Now, with respect to the mud, this is the

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1 mud that's used to finish a job on joints and so forth on
2 things like that where you can't cut pieces to fit. Is
3 that correct?

4 A Yes.

5 Q That's the mud that's used. I think you
6 told us that this system has been changed also.

7 A Well, there's been a change in product. I
8 can't specify the date for you but Mr. Guillote certainly
9 should be able to provide the date -- that information
10 and it seems that it was five to seven years.

11 Q In other words, asbestos is no longer used
12 in the mud room?

13 A That's my understanding, yes, sir.

14 Q Do you know what that material is at the
15 present time that is used?

16 A I'm told that it's a mineral wool.

17 THE JUDGE: Mr. Shafner?

18 CROSS EXAMINATION

19 BY MR. SHAFNER:

20 Q When was it changed, Mr. Secor?

21 A I really can't say.

22 Q Approximately?

23 A Five to seven years ago.

24 Q And you no longer use that asbestos material
25 at Electric Boat?

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1 A The question was relative to making mud, --

2 Q Oh, I see. You're still using asbestos

3 materials?

4 A Yes, sir.

5 Q And you still rip off old asbestos?

6 A Yes, sir.

7 Q And what is the standard you meet --

8 A The standard that I meet now is five fibers
9 per milliliter.

10 Q And you're about to reduce it even further
11 in view of the proposed regulation by the Labor Department?

12 A That has been in effect since 1972, yes.
13 It will be reduced automatically July, 1976 to two fibers
14 per mill.

15 Q You're aware that the proposal now is to
16 reduce it to one and a half -- one half per mill.

17 A 0.5, yes, sir.

18 Q I'm not sure what it has to do with this
19 case but it is interesting -- what type of monitors do
20 you have to measure the loudness of asbestos?

21 A Individual samples are taken with eight-
22 tenths micron milled pore filters with personal air monitor
23 pumps.

24 Q How often are they changed?

25 A I do not have a firm fixed schedule. I tr

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1 to, time permitting, get samples once a week, every other
2 week, something of that order.

3 Q And where do you take the samples?

4 A Anywhere that asbestos is being worked.

5 Q And that's on board the ships?

6 A On board the ships, yes, sir.

7 Q And to the lagging shop and on the barge?

8 A We have not paid special emphasis to the
9 shop and barge in recent years because they are not
10 fabricating any asbestos materials in those areas. Every-
11 thing has been converted to fiberglass.

12 Q And what about in the outside areas next
13 to where the ventilators are located?

14 A I have some ambient air samples, nothing
15 really significant for asbestos.

16 Q Are there individual ventilators on board
17 the ship?

18 A There are a great number of what you would
19 consider local exhaust ventilators, yes.

20 Q Local. Are these what they call suckers?

21 A Yes.

22 Q Are they very effective in removing the
23 asbestos?

24 A That's not a particularly good idea. We
25 prefer to isolate the area to contain the asbestos fiber in

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1 the immediate area rather than just to blow it outside or
2 something of this nature.

3 Q How do you contain it within the area?

4 A Well, there are a number of things that have
5 been worked. Essentially the size of the submarine compart-
6 ment normally will dictate what would be a reasonably
7 confined or enclosed space.

8 Q You have all kinds of tradesmen working in
9 that area, don't you?

10 A No, sir. Only the ladders.

11 When we initially set this program up to
12 control that type of thing, all work was scheduled for
13 Saturday and Sunday where this is not always --

14 Q When was that set up, the date?

15 A Again I would say July, 1972. It could have
16 been earlier -- no, as a matter of fact, it is much earlier
17 than that time, yes. Sometime in 1971 or prior.

18 Q Now, prior to 1971 what safety equipment was
19 given to you -- to the employees?

20 A I think it depends on the job function that
21 they were doing at the time.

22 Q You say a pipe logger ripping out asbestos?

23 A If the job was, say, in a reactive department
24 the employer used an air fed respirator, possibly complete
25 protective clothing, depending upon what the factors were

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1 relevant there.

2 Q Let's say it's not in a radioactive area
3 there?

4 A I would suggest -- I can't specify a date
5 on when coveralls were issued. I know when they were
6 required to be issued.

7 Q When did they require that they be issued,
8 1972?

9 A I think I can go back even a year further
10 than that.

11 Q 1971?

12 A Sometime in 1971.

13 Q Okay.

14 What respirators or masks were given to the
15 men prior to 1971?

16 A We used the Pulmosan Elito I (phonetic),
17 which is a standard dust type respirator. It was the
18 standard model that they used for dust control.

19 Q Who wore those?

20 A Who wore them?

21 Q Yes.

22 A Well, see, I would say the ladders.

23 Q Was it mandatory for them to wear it or
24 were they just furnished them and if they wish to use them?

25 A I think it was probably an optional requirement.

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1 Q When did it become mandatory?

2 A I would say sometime in 1971.

3 Q Prior to 1971, was it a usual practice
4 that very seldom these respirators were worn by pipe
5 ladders?

6 A I really can't answer your question because
7 I don't have that much association with it.

8 Q Would any respirators be given to the man
9 working alongside of the pipe ladder?

10 A Again, I don't feel that I could adequately
11 answer it.

12 Q When you got to Sobolewski -- in regard to
13 Mr. Sobolewski, were you aware of his employment records?

14 A I have reviewed his employment records, yes.

15 Q And are there some other records which show
16 whether or not he was given a respirator?

17 A Not to my knowledge.

18 Q There is no record that indicates whether or
19 not he had a respirator issued to him?

20 A Not to my knowledge.

21 Q Those records were not kept?

22 A I would say no.

23 Q After 1972, were they kept?

24 A Not as a matter of record. It was a mandat
25 requirement after that time.

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1 Q Were these respirators exchanged from time to
2 time and cleaned?

3 A (Shaking head affirmatively.)

4 Q Who maintained these respirators?

5 A There was a small respirator refurbishing
6 station, primarily manned by the painters, but I suspect
7 that Mr. Guillote sent his up there to have them cleaned
8 and refurbished.

9 Q How often would they be sent there for
10 cleaning?

11 A I can't answer the question.

12 Q Were they cleaned by the painters?

13 A Yes, I believe that function was manned by
14 the painters. I am sure it was manned by the painters.

15 Q Were there any other kinds of respirators
16 used in the asbestos area?

17 A Currently?

18 Q No. Prior to 1971.

19 A Well, you had air fed respirators which meant
20 radiological control requirements.

21 Q But these weren't for asbestos workers
22 necessarily. It was for radioactivity?

23 A Well, when they worked in radioactive areas,
24 yes.

25 Q Yes.

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1 A To my knowledge, the Pulmosan Elito I was --

2 Q What does that look like?

3 A What does that look like?

4 Q Does that look like a gas mask?

5 A Well, it is a small rubber face piece that
6 fits over the nose and mouth. It has two straps. One of
7 them fits over the back of the upper head and one around
8 the neck. And the Elito I, as I recall, had a single chin
9 canister, if you will, which --

10 Q How far did that extend from the face?

11 A Oh, maybe three-quarters of an inch, an
12 inch.

13 Q And do you know that men would routinely
14 take them off when they had to get in very, very tight
15 areas?

16 A I can't substantiate that.

17 Q You never saw a man taking one off and
18 working without one?

19 A I have seen people work without respirators,
20 yes.

21 Q As a matter of fact, I guess before 1971 they
22 all worked without respirators because they weren't issued
23 routinely, is that right

24 A Well, before that time I think you will find
25 that it was pretty well accepted that asbestos was a nuisance

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1 that's why it had an extremely high threshold limit about it.
2 The disease known as asbestosis was pretty well documented.
3 It was considered of the same order of magnitude as
4 silicosis, which was an old man's disease after having
5 worked in a dusty environment for a number of years.

6 The concept of lung cancer and mesophilioma, in
7 particular, was not stressed until later on in the 60's,
8 and it was not until that time that people began to give
9 much consideration to asbestos as a hazardous material.

10 Q How long have you been in your position?

11 A As Chief of Environmental Control since
12 July, 1971.

13 Q How long has it been since you have been
14 monitoring the levels of asbestos in the atmosphere?

15 A I would have to say about 1968.

16 Q You have records in regard to that?

17 A There should be some records available.

18 Q That's about all I have.

19 THE JUDGE: Any further redirect examination --
20 cross examination by Mr. Johnson next?

21 CROSS EXAMINATION

22 BY MR. JOHNSON:

23 Q Did you know Mr. Sobolewski?

24 A No, sir.

25 Q So you don't know if he wore the respirator

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1 at all times or not?

2 A I have no idea.

3 Q Mr. Eleazer testified previously, he said
4 he worked with him, that Mr. Sobolewski wore it about
5 fift. percent of the time. You wouldn't have no knowledge
6 of that?

7 A No, sir.

8 Q Do you know whether or not they are possibly
9 used in closed areas, small areas?

10 A At this time?

11 Q Yes.

12 A It's mandatory.

13 Q Mr. Eleazer said you couldn't use them in
14 tight spaces.

15 A I know of no particular application that
16 would require you to remove your respirator.

17 Q You say you have seen ladders work there
18 without using them?

19 A In past years, yes, sir.

20 Q In past years?

21 A Yes, sir.

22 Q Since 1972 when the federal regulations
23 regarding asbestos was published, have you seen any ladder
24 work without one?

25 A I had a man who was supplied with an air fed

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1 respirator who had taken it off because he felt that it
2 was uncomfortable and was instructed to put it back on.

3 Q That is the only case that you know of?

4 A Yes, sir.

5 Q Do you have occasion to acknowledge how many
6 men were working there not using respirators?

7 A I don't understand the question.

8 Q Have there been any records kept of men who
9 do not use respirators?

10 MR. BEANE: Objection. I think his testimony
11 was that it was mandatory.

12 THE JUDGE: It is proper cross examination,
13 Mr. Beane, although it is mandatory by regulation, he also
14 has testified to some degree that at least one man, I think
15 he just mentioned right now, did not wear a respirator and
16 he is asking now what records are kept in this regard.

17 BY MR. JOHNSON:

18 Q Are there any records kept?

19 A Not to my knowledge.

20 Q So your job is to see that the regulations
21 published by the Federal Government are complied with?

22 A Essentially, yes.

23 Q So then a notice would be put up saying all
24 ladders it is mandatory to wear respirators?

25 A Yes, sir.

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1 Q And as to whether or not that has been
2 followed completely, you don't know?

3 A We periodically try to monitor these jobs
4 to determine that adequate safety precautions are being
5 adhered to in any particular work function.

6 Q Who monitors them, you?

7 A No, sir. I have four industrial hygienist
8 that work for me that do the actual monitoring. I period-
9 ically get involved, but not to any great extent.

10 Q They go around to the different places?

11 A Yes, sir.

12 Q And you have done that too?

13 A Yes, sir.

14 Q How often have you done it?

15 A I have done it periodically, specifically
16 for asbestos since about 1968.

17 Q 1968?

18 A Yes, sir.

19 Q And during that time, how many people have
20 you seen that didn't use the respirator?

21 A Specifically, I could only recall two.

22 Q Two in the last seven years?

23 A Yes, sir.

24 Q Whether or not they are used, you would
25 have no knowledge of whether or not Mr. Eleazer testifie

1 that the claimant wore it fifty percent of the time was
2 right or wrong to you?

3 A No, sir.

4 Q That's all I have.

5 REDIRECT EXAMINATION

6 BY MR. BEANE:

7 Q Mr. Secor, you indicated that the filter
8 that is presently used as a filter the size of one-half
9 micron?

10 A You mean the filter for taking air samples?

11 Q Oh, I am sorry. That's not for the
12 respirator, that's only for the --

13 A That's eight tenths of a -- the size of
14 the filter is eight-tenths of a micron. That is for
15 taking air samples.

16 Q Can you tell us what a micron is? It's a
17 very, very small size?

18 A Well, not that it has any meaning, no, sir.

19 MR. BEANE: I have no further questions.

20 THE JUDGE: Any further recross examination?

21 RECROSS EXAMINATION

22 BY MR. SHAFNER:

23 Q Mr. Secor, did you also furnish anything
24 that looked like a gauze mask that you wear in an operating
25 room?

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1 A Not a gauze mask. We have a respirator which
2 is, you use it one time and throw it away type of respirator.
3 It is manufactured by the 3M Corporation, which is approved
4 by NIOSH, National Institute for Occupational Safety and
5 Health and the Mine Equipment Safety Agency for pneumoconiosis
6 producing dust or specifically for asbestos at certain levels.
7 It's okay for temporary use, for short term use. It has
8 NIOSH approval. I guess you can use it all day if you
9 want to. I prefer not to.

10 Q But it allows a greater number of fibers to
11 enter the equipment or into the mask --

12 A No, I can't say that.

13 Q Do you have a larger size or a smaller size?

14 A No. I think regardless of the kind of
15 respirator as long as it has NIOSH approval, it must meet
16 certain approval and I don't think the degree, if that's
17 what I want to say, the number of fibers that might pass
18 through it, I don't think is a critical factor as compared
19 to a more expensive respirator when you would continue to
20 change the filter or perhaps have a better fit.

21 Q Now, one of these masks are placed on the
22 men?

23 A The disposable filter?

24 Q Yes.

25 A Yes. It fits over the nose and around the

1 bottom of the chin.

2 Q How does a man breathe?

3 A It is very porous. The pressure dropped
4 through that, I'm sure, is minimal. That's one of the
5 criteria for tests for a suitable respirator to get NIOSH
6 approval is that it has to meet some pressure drop approval.

7 Q I don't think you are making it very clear
8 to us.. How does a man breathe?

9 A The whole mask is porous.

10 Q Oh, I see.

11 So he is getting air through the mask?

12 A Yes.

13 Q And the fibers that are small enough to
14 get through the mask he gets those also?

15 A I don't know what the criteria is for
16 permeation.

17 Q Now, the respirator that you discussed,
18 how does a man breathe through the respirator? That's a
19 different type?

20 A Yes.

21 Q How does a man breathe through that?

22 A The type that we use now is a mine safety
23 appliance company, Compo II, (phonetic) and has two filters,
24 one on each side. Now, this respirator has both inhalation
25 valves and exhalation valves so that the air flow can only

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1 go one way and that is in through the filter and out through
2 the exhalation valve at the bottom of the mask.

3 Again, very minimal pressure drop coming
4 through the filter so that it doesn't cause the man to
5 hyperventilate when using the respirator.

6 Q Are these masks fitted to the men by the
7 industrial hygienist?

8 A It's a --

9 Q Or anyone who has a medical background?

10 A We have a program where we want to try to
11 talk to each individual person who is required to wear a
12 mask. The size of a dust respirator is a universal size.
13 In other words, it is designed to fit the maximum number of
14 people with the greatest comfort and ease. In other words
15 the soft rubber face piece is reasonably flexible and
16 has both horizontal and longitudinal flexibility to account
17 for differences in facial characteristics.

18 Q Do you make any investigation as to the man's
19 general health before fitting him with these masks,
20 ventilators or respirators?

21 A At this point in time, I would have to say
22 that I have not, no.

23 Q No one else has, as far as you know, is
24 that correct?

25 MR. BEANE: Objection.

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1 I think there has been testimony that these
2 people are seen by the medical department at least twice
3 a year to see whether or not they are suitable to be fitted
4 for one of these respirators.

5 THE JUDGE: The question, as I understand it,
6 is to determine whether or not there is any medical
7 examination to determine whether or not a person can wear a
8 particular respirator. Is that right?

9 MR. SHAFNER: Yes, and whether it has to be
10 specially fitted.

11 THE JUDGE: I think that is legitimate cross
12 examination, Mr. Beane.

13 THE WITNESS: I really can't answer the
14 question. That would have to come from our Medical
15 Department. I am really not sure.

16 BY MR. SHAFNER:

17 Q You are not aware of any such examination?

18 A Not to my knowledge.

19 Q Is there a written policy that the company
20 has in regard to working in asbestos areas?

21 A Yes. There is a section in the safety manual
22 which specifies all the precautions that are mandated to
23 be carried out.

24 Q And do you have a copy of that, sir?

25 A I don't.

1 Q Does one of your colleagues have a copy?

2 A It is a standard publication with the
3 division. I am sure there are hundreds of them available.

4 Q Would you supply a copy?

5 A Sure.

6 Q Would you tell us when that was written?

7 A I would suggest early in 1973, but I am not
8 absolutely sure.

9 Q Was there anything in effect prior to that
10 time in writing?

11 A I don't know really how to answer that. I
12 would say, yes, there certainly were recommendations in
13 writing prior to that time.

14 Q Would you supply copies of the previous
15 written policies?

16 A I would think so.

17 Q And you can supply that to your attorney and
18 he can furnish us with a copy?

19 A I think so.

20 MR. SHAFNER: May that come in as an exhibit
21 when it is furnished?

22 THE JUDGE: This type of thing will not be
23 automatically made a part of the record in the absence of
24 some stipulation on the part of counsel, Mr. Beane and Mr.
25 Johnson.

1 If you want to offer that type of thing for
2 the record, you are going to have to do it either by
3 stipulation or we are going to have to have some further --
4 I see no reason why we should unnecessarily extend the
5 hearing. This is the kind of thing that we are suppose to
6 do today, Mr. Shafner, as you know, and, however, if Mr.
7 Beane and Mr. Johnson interpose no objection, there is no
8 reason why such guidelines and regulations could not be
9 made a part of the record after this hearing.

10 MR. BEANE: I certainly have no objection to
11 that, but my impression is that this is not relevant to the
12 problem that we face.

13 THE JUDGE: Well, that would be that proviso.
14 The relevancy would have to be shown, Mr. Shafner, and also
15 Mr. Johnson would also have to be consulted on this issue.

16 Do you have any objection to that?

17 MR. JOHNSON: I don't see no objection.

18 THE JUDGE: Why don't we do it this way,
19 gentlemen? Let's not burden the record at this point. When
20 they are supplied to you, if you look them over and if you
21 feel they are relevant and the gentlemen have both
22 indicated their intention to co-operate in that regard, if
23 you could submit that to me together maybe with a short
24 one sentence letter from each of them indicating that
25 they be made part of the record. I see no reason why they

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1 couldn't be made a part of the record.

2 BY MR. SHAFNER:

3 Q Mr. Secor, finally, you mentioned some
4 notices that were put up. Do you know what these notices
5 contained and where they were posted?

6 A You meaning posting of asbestos work areas?

7 Q That's not what I meant.

8 A The regulation requires that those areas
9 where asbestos is worked shall be posted with certain
10 words as they appear in the federal regulation. Each shop
11 and barge have about twelve by eighte inch panels, yellow
12 panels, caution panels with black lettering indicating
13 that this is a caution area; that asbestos is being worked
14 and some certain words to the effect that asbestos may be
15 hazardous to your health.

16 These are also posted on a temporary basis
17 if the lagging job is being performed in a compartment of
18 a ship then that compartment is posted on a temporary basis

19 Q How long have those posting notices been
20 used, since 1972, I take it?

21 A Yes.

22 Q Prior to that time, did you use any kind of
23 posting notices?

24 A Not to my knowledge.

25 Q Are there any other notices given to employee

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1 concerning the dangers of working with asbestos?

2 A I would say the primary direction is given
3 in the safety manual.

4 Q The safety manual is distributed to all
5 employees?

6 A The safety manual is distributed to all
7 departmental supervisors who in turn instruct their
8 employees.

9 Q Do you know what these people tell the
10 employees?

11 A No. You will have to talk to Mr. Guillote.

12 Q Mr. Guillote? He is here.

13 A Yes.

14 MR. SHAFNER: Thank you, sir.

15 MR. JOHNSON: No further questions.

16 THE JUDGE: I would like to ask one or two
17 short questions.

18 You mentioned, Mr. Secor, in close quarters
19 on submarines and I guess in other areas as well, I don't
20 know if you want to depart from that, that blowers are
21 used to take the asbestos dust out of those areas. Is that
22 correct?

23 THE WITNESS: No, sir, I didn't say that.

24 THE JUDGE: All right. You said the exact
25 opposite, that it was not desirable to do so?

1 THE WITNESS: Yes, sir.

2 THE JUDGE: Now, the people that are working
3 in those immediate areas, does that mean that they are
4 exposed to more asbestos dust than others?

5 THE WITNESS: No, sir. The regulation requires
6 that all people working in an asbestos rip out area must
7 wear air fed respirators and protective clothing.

8 THE JUDGE: Now, are there any situations
9 where people working in close quarters do not use this
10 protective clothing and respirators?

11 THE WITNESS: No, sir.

12 THE JUDGE: Is that the correct pronunciation
13 respirators?

14 THE WITNESS: Respirators?

15 They are required to wear respirators. Not
16 everyone wears an air fed respirator. Some wear a standard
17 dust respirator simply because the levels of dust are such
18 that it is not required to wear, say, an air fed respirator.

19 THE JUDGE: Do the men object to the wearing
20 of these respirators?

21 THE WITNESS: Some people, I am sure. I
22 haven't had anybody come to me specifically and say, I am
23 not going to wear it.

24 THE JUDGE: Is it, from the nature of your
25 experience, do some men find it uncomfortable to wear the

1 for long periods of time?

2 THE WITNESS: I am sure they do.

3 THE JUDGE: Is it sort of a police operation
4 that you have going in order to keep the men wearing these
5 respirators?

6 THE WITNESS: No, sir. No, I do not police.

7 THE JUDGE: Do you have inspectors that
8 endeavor to keep the men wearing these respirators?

9 THE WITNESS: The people who monitor these
10 particular jobs would speak to a man who took off his
11 respirator and either insist that he wear the respirator or
12 leave the area. To that extent perhaps I police the safety
13 manual requirements, but I do not intentionally go out and
14 patrol the areas or police to determine if people are, in
15 effect, adhering to the regulations.

16 THE JUDGE: You have people who do that on
17 your behalf?

18 THE WITNESS: I have four industrial hygienist
19 who do periodically monitor asbestos operations for me, yes,
20 sir.

21 THE JUDGE: Is that one of their operations?

22 THE WITNESS: Yes, sir.

23 THE JUDGE: Now, we have testimony here by
24 Mr. Eleazer saying that in certain areas that it was
25 impossible or uncomfortable to wear respirators because of
the closeness of the area, lack of space. Would that be

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1 the type of situation where it would be difficult to make
2 an employee wear a respirator?

3 THE WITNESS: As I stated before, I can't
4 think of any particular job application that would be such
5 that a man would have to remove his respirator to do the
6 job. A respirator, of course, and I'm not familiar with
7 all operations that go on in a submarine --

8 THE JUDGE: Does that mean when you say
9 you're not familiar that go on in a submarine, does that
10 mean to say that in certain situations that your general
11 knowledge about respirators might not be applicable to
12 those situations?

13 THE WITNESS: To the best of my knowledge,
14 there is no job that you can not do wearing a respirator.

15 THE JUDGE: But you say you're not familiar
16 with all operations involving a submarine. Is -- why did
17 you say that?

18 THE WITNESS: Because I've been off and on
19 those boats for seventeen years and I learn something new
20 today and tomorrow and there are always job functions that
21 come to me as new types of functions that sometimes require
22 study.

23 THE JUDGE: Are you saying that the rules
24 that are ideal in one situation, the rules may be perfect
25 applicable, but in others due to the unique circumstances

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1 presented by that job situation, you may have problems?

2 THE WITNESS: The rule of protective clothing,
3 the rule of wearing a respirator for asbestos rip off
4 work is mandatory and there are no exceptions.

5 THE JUDGE: Well, that really wasn't
6 responsive to my question. My question -- you said you
7 were not familiar with all operations involving the
8 construction of a submarine. You've been there seventeen
9 years and there are things you learn every day. Now, are
10 you saying, in effect, that you don't have personal
11 knowledge of how it works out in practice when you are
12 trying to implement these rules?

13 THE WITNESS: Let me see if I can illustrate
14 and make you understand what my answer really is. We try
15 to monitor those jobs where asbestos is used to determine
16 what the air borne levels of asbestos are and what the
17 individual employee's exposure is. About two or three
18 weeks ago, I learned that certain asbestos cloth is cut
19 and placed inside of pipe hangers as an isolation mount
20 for the pipe. I have been there for seventeen years but
21 I never knew that before and I didn't know that was an
22 application for asbestos. I find that as we look more and
23 more into this thing that there are certain jobs which I
24 had not previously considered as asbestos related as
25 asbestos vinyl flooring which where the vinyl asbestos

EC2a

1 contains the filler of asbestos materials. There are
2 gaskets used for every conceivable application aboard ship
3 which may be asbestos gaskets and I just can't possibly
4 know of every particular application of asbestos in the
5 construction of a submarine.

6 THE JUDGE: To that degree, that is to the
7 degree that you're learning new things, you're making your
8 regulations applicable as you go along to these new
9 situations, is that right?

10 THE WITNESS: Yes, sir.

11 THE JUDGE: Is there any further redirect
12 examination, Mr. Beane, or any further recross examination,
13 Mr. Shafner and Mr. Johnson?

14 MR. JOHNSON: No.

15 THE JUDGE: Mr. Beane, you have one more
16 witness?

17 MR. BEANE: Yes.

18 MR. SHAFNER: Just one question. Mr. Secor,
19 there are some areas on a boat in which men have to enter,
20 due to the size of the opening some men can not get in,
21 you need small men to get into the opening?

22 THE WITNESS: I've never found an area that
23 I couldn't get into.

24 MR. SHAFNER: Well, you are not a very big
25 fellow, Mr. Secor.

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1 THE WITNESS: Well, that's the best I can
2 answer your question, Mr. Shafner.

3 MR. SHAFNER: You're not aware of any
4 situation where some men have been unable to complete the
5 job because of their size?

6 THE WITNESS: Mr. Shafner, we have a require-
7 ment in the submarine industry that before any man can
8 enter any space which has been closed at any given time
9 that the atmosphere in that space must be tested and certified
10 as safe for entering. Now, I did that work for a number of
11 years as a senior atmosphere chemist at Electric Boat.
12 There was never an area that I personally could not get
13 into to visually inspect to insure that it was safe for
14 another man to get into.

15 MR. SHAFNER: I don't know if that answers
16 the question but thank you.

17 THE JUDGE: Are we through with this witness,
18 Mr. Beane?

19 MR. BEANE: Yes.

20 THE JUDGE: You may be excused. Thank you,
21 Mr. Secor.

22 (Witness excused.)

23 Whereupon,

24 BERNARD EDWARD GUILLOTE
25 was called as a witness and, having been first duly sworn,
was examined and testified as follows:

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DIRECT EXAMINATION

BY MR. BEANE:

1
2
3 Q State your name and address for the record,
4 please?

5 A Bernard Edward Guillote. I live on Main
6 Street, Voluntown, Box 242.

7 Q And by whom are you employed, sir?

8 A General Dynamics Electric Boat Company.

9 Q And how long have you been so employed?

10 A I've been working for them going on twenty-
11 six years.

12 Q And what is your job at the present time,
13 sir?

14 A I'm general foreman of the insulation
15 department.

16 Q General foreman of what?

17 A Insulation department.

18 Q Does this mean that the ladders work for you?

19 A Yes, they do.

20 Q Now, can you tell us what material is present
21 being used for mud and how long the present material has
22 been used?

23 A We are using mineral wool at the present
24 time and this has been in use for approximately five years.

25 Q Mr. Guillote, prior to that time, what was

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1 used in the mud?

2 A Well we had a combination of mineral wool,
3 which was a high temp, and then the asbestos finishment
4 which went on top of that there.

5 Q I see. Now, since you are the general foreman
6 in this area of this type of work, are you familiar with
7 the safety requirements pertaining to the use of asbestos?

8 A I've been familiar with all the requirements
9 of safety for the last twenty years.

10 Q And what are the safety requirements at the
11 present time with reference to the use of asbestos?

12 A Well, on the removal of asbestos we have to
13 use, to begin with there's caution signs before we go down
14 on the job. Every logger involved in the demolition of
15 asbestos products has to wear an air fed respirator. All
16 asbestos products that are removed have to be bagged in
17 plastic bags and warning tags have to be attached to that
18 and it is taken off the ship and disposed of in containers.

19 Q Now, how long has it been mandatory or has
20 it been required that you use these air fed respirators?

21 A Since July of '72.

22 Q Do you, as part of your function, police
23 these people that are working and see that the respirators
24 are used?

25 A Well, I do when I get aboard the ship.

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1 If the people are working with asbestos, I have several
2 supervisors working for me who are suppose to police these
3 areas.

4 Q So there is somebody who is responsible --

5 A Yes, there is.

6 Q And who are these people that are
7 responsible?

8 A Well, they are my supervisors, also working
9 leaders are suppose to police this area.

10 Q Approximately how many ladders are there
11 employed at the present time?

12 A At the present time we have eighty-five ladders
13 working.

14 Q And how many supervisors do you have?

15 A I have eight supervisors.

16 Q I see.

17 Now, I think you heard Mr. Secor describe
18 some changes in the lag shop that were made in the last
19 two or three years?

20 A There's been very many changes made in the
21 last two years, three years. We started in 1971 with
22 some of these changes.

23 Q Can you briefly tell us what those changes
24 were?

25 A Like Mr. Secor said, we obtained a new

1 barge, we put on a new ventilation system, new sucker
2 systems on the barge, try to update the barge. Also, our
3 main shop has been updated twice here in the last -- since
4 1970, '71. The last time it was updated, it was updated
5 to all the ocean requirements.

6 Q And what was the purpose of this update?
7 That was my next question.

8 A Because of knowledge coming to us that
9 asbestos was a hazardous material to work with.

10 Q In other words, the changes were made primarily
11 because of asbestos?

12 A That's correct.

13 Q You may cross.

14 THE JUDGE: Mr. Shafner?

15 CROSS EXAMINATION

16 BY MR. SHAFNER:

17 Q Prior to 1971, what was done for the men?

18 A What was this?

19 Q Prior to 1971, what did you do for the
20 pipe ladders?

21 A For the pipe ladders in what sense?

22 Q What protection did you give them?

23 A They had respirators available for them,
24 coveralls available.

25 Q How many respirators were available?

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1 A We're talking about from day one when the
2 department started through the years?

3 Q How about 1970?

4 A 1970. At one point in 1970, I ordered
5 seventy-two respirators at one time to make sure that
6 every individual working for us had a respirator.

7 Q How many ladders did you have?

8 A Seventy-two, I ordered one for each man.

9 Q How were they maintained?

10 A The individual maintained his own respirator.
11 Cleaning of the respirator and also when he needed new
12 filters, he also would get new filters too.

13 Q How did he clean them?

14 A We have alcohol and rags, clean rags available
15 for them.

16 Q Can you describe how you clean a respirator?

17 A Well, it was only considered a dust which
18 was a nuisance and not a hazard at that time.

19 Q Is that how you treated it and the men
20 treated it and everyone else?

21 A As a nuisance.

22 Q As a nuisance?

23 A Not really as a hazard.

24 Q Not as a health problem?

25 A That's correct.

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E09a

1 Q When did it become a health problem as far
2 as you were concerned?

3 A Well, when we found out more about it.

4 Q In 1972?

5 A Which was, I would say, probably around 1971
6 is when we started to hear different things about asbestos
7 being hazardous to the health.

8 Q Now, are there some areas aboard the boat
9 which have to be insulated which are so narrow that only
10 the small fellows and the ladders can get into them?

11 A Well, you don't have quite that condition on
12 the newer ships.

13 I agree --

14 Q I mean the older ships.

15 A The older ships, the conditions were very
16 difficult to get in and it was even difficult for a person
17 to get in not considering a mask.

18 Q As a matter of fact, you might have difficulty
19 in some --

20 A Certainly. There are many areas that I
21 couldn't get in right now.

22 Q As a matter of fact, did they hire some
23 midgets for this department?

24 A They had quite a selection of different
25 size people. That allowed us to do all of the work that

1 was available to do.

2 Q You had some very small fellows to get into
3 the tight spots?

4 A Yes, we did.

5 Q Was Mr. Sobolewski one of those small
6 persons?

7 A I think Joe was probably about the middle
8 size person that would get practically all jobs, but there
9 were probably some that were difficult for him to get his
10 work done at Electric Boat.

11 Q Do you know how often he wore a respirator or
12 any other kind of equipment on his face?

13 A Well, I talked to Joe many times and also
14 the other supervisors and working leaders about trying to
15 make our people wear respirators. Joe was very familiar
16 with the safety regulations because he was a supervisor at
17 one time, also a specialist, working leader. It varied
18 with the amount of people we had. So he was familiar with
19 all the requirements of safety.

20 Q Did he wear the respirators in the mask?

21 A That I can't be sure of that, but he was a
22 supervisor on the second shift and he was a working leader
23 on the second shift --

24 Q Just a moment.

25 Did you see him wearing his mask all of the

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1 time or did you see him without the mask?

2 A I can't say because I didn't come in on the
3 second shift.

4 Q I see.

5 A I was on the first shift. Follow my directions
6 and follow the directions of some of the supervisors with
7 him. I would feel as though he must have. I never had
8 a complaint.

9 Q So if I understand your testimony, Mr.
10 Guillote, after 1971 you felt that everyone knew that they
11 should be wearing a mask, a respirator, including Mr.
12 Sobolewski?

13 A They were all told, most certainly. This
14 was an obligation that they had to fulfill wearing respirators.

15 Q But not prior to '71?

16 A No, it wasn't required before that.

17 MR. SHAFNER: Thank you, sir.

18 THE JUDGE: Mr. Johnson?

19 MR. JOHNSON: No questions.

20 THE JUDGE: Mr. Guillote, you had eighty-five
21 ladders. Do you have the eighty-five ladders right now,
22 is that correct?

23 THE WITNESS: Yes, we do.

24 THE JUDGE: Now, the ladders, the work has
25 been described. Mr. Sobolewski was a ladder, is that correct?

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1 THE WITNESS: Yes, he was.

2 THE JUDGE: And all the time that he was
3 working on behalf of this employer, was he a logger?

4 THE WITNESS: Well, he was a supervisor for,
5 I believe, about a year and a half, probably closer to
6 two years and then he went back to work as a leader after
7 that time.

8 THE JUDGE: In each case, he would have been
9 working with the logger?

10 THE WITNESS: He would be working with the
11 logger as a working leader. This is correct.

12 THE JUDGE: Now, the loggers, do they rip
13 out old asbestos as well as install new asbestos?

14 THE WITNESS: At the present time we are
15 not installing asbestos except for one exception what comes
16 in is manufactured by a vendor, certain blankets are
17 manufactured by outside vendor.. If we receive something
18 like that, it is applied to the ship in very small
19 quantities.

20 Presently, all of the material that we
21 manufacture and install is asbestos free material.

22 THE JUDGE: When did you implement this
23 new policy?

24 THE WITNESS: This has been in effect
25 actually since we found out that asbestos products were ha

1 to your health. We have been substituting new products every
2 time something new comes on to the market.

3 THE JUDGE: Are you saying at the present time
4 you do not use any asbestos except in one situation, is that
5 right?

6 THE WITNESS: As far as the ladders are
7 concerned, pipe ladders.

8 THE JUDGE: Now, you obviously didn't make
9 this change over immediately.

10 THE WITNESS: It took us approximately two
11 years.

12 THE JUDGE: Now, when did that two year period
13 begin?

14 THE WITNESS: Well, I would say when we really
15 got into it was in 1972.

16 THE JUDGE: What part of 1972?

17 THE WITNESS: Probably the middle of '72 when
18 we really started pushing to get all of the asbestos products
19 out to get new products in.

20 THE JUDGE: You started in the middle of 1972
21 and you say now, as of right now, with minor exceptions, you
22 have all of the asbestos products out? Is that what you are
23 testifying to?

24 THE WITNESS: That's correct as far as the
25 insulation department goes.

1 THE JUDGE: As far as the insulation department
2 goes?

3 THE WITNESS: That's correct.

4 THE JUDGE: That's the new appli ation?

5 THE WITNESS: The new application as far as,
6 like I say, except for a few articles that come in supplied
7 by vendors, we have no asbestos being installed.

8 THE JUDGE: With respect to the insulation
9 department, in June of 1973 what would be the status of your
10 change over as of June of '73? Which would be about a year
11 after your initiation of the project?

12 THE WITNESS: Well, we were looking into
13 new materials at that time. Like we substituted unabestos
14 blanket with glass blanket. There were some glass battens
15 that were coming out on the market that we substituted for
16 asbestos cloth.

17 THE JUDGE: You were beginning to substitute
18 in June of 1973?

19 THE WITNESS: Yes.

20 THE JUDGE: You were beginning to substitute
21 in June of 1973 or you had already substituted in June --

22 THE WITNESS: We had substituted those
23 materials by that time in 1973.

24 THE JUDGE: Approximately, what would be the
25 percentage of your change over in June of 1973?

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1 THE WITNESS: I would say it would be probably
2 in the neighborhood of thirty percent changeover.

3 THE JUDGE: You had accomplished thirty percent
4 of your changeover?

5 THE WITNESS: I would feel so, yes.

6 THE JUDGE: Now, with respect to the removal
7 of old asbestos, you are not referring to that at all?

8 THE WITNESS: No, I'm not.

9 THE JUDGE: The removal of old asbestos
10 involved contact with asbestos?

11 THE WITNESS: That is still in the process.

12 THE JUDGE: That is not your department, is
13 it?

14 THE WITNESS: Yes, it is. We remove the
15 old asbestos also.

16 THE JUDGE: Ladders do this also?

17 THE WITNESS: Yes, they do.

18 THE JUDGE: Now, you knew Mr. Sobolewski?

19 THE WITNESS: Yes, I did.

20 THE JUDGE: And all of his work experience,
21 say, for a period, I don't recall the exact date, but maybe
22 you can help me out, prior to 1973, prior to June of 1973,
23 do you recall how far back his contact with your department
24 continued, how far back you can extend it?

25 THE WITNESS: That I knew Joe Sobolewski?

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1 THE JUDGE: As a logger.

2 THE WITNESS: As a logger?

3 THE JUDGE: Yes.

4 THE WITNESS: Well, I was the first man in
5 the department. I knew Joe from the day he came in.

6 THE JUDGE: And when was that?

7 THE WITNESS: I believe it was in November
8 of 1955.

9 THE JUDGE: All right. Now, just briefly,
10 if you will, what type of work did he do? Was it all
11 vessel related?

12 THE WITNESS: It wasn't all asbestos related,
13 no. Because he did many, many jobs on the ship, depending
14 what areas were considered to be a hot area and this is
15 what we use the second ship mostly for, to try to accomplish
16 jobs that -- to continue the job from the first to the
17 second to the third shift right through on a twenty-four
18 hour basis and these are the jobs that he was involved with
19 mostly.

20 THE JUDGE: When you say hot areas, what do
21 you mean by hot areas?

22 THE WITNESS: If we had a system that was
23 tested, like the chill water system or the steam system,
24 certain parts of these systems that we wanted to complete
25 in short order, then we would put this on a three shift basis.

1 The same thing with rip outs. If there was an area that had
2 to be ripped out, we would rip some out on the first shift,
3 some on the second and some on the third shift until new
4 ocean requirements came out then, of course, we're trying to
5 do all our rip outs on an off shift so there would be very
6 few people in that particular area.

7 THE JUDGE: Just if you will, just paint a
8 sketch in words, if you will, of the type of work that he
9 did as a logger for you in that department.

10 THE WITNESS: Well, let's say, for instance,
11 if he was working a main turbine, he would probably start
12 off with the basic insulation of the asbestos mat at that
13 particular time. This here was all wired into place on
14 lacing devices. After that portion of it was completed,
15 he would apply poultry wire over the top of this here.
16 After the poultry wire was applied, and fastened down, then
17 high temperature cement was applied over the top of the
18 poultry wire. The vinyl coat was probably way back, a
19 coat of asbestos cement. And finally the lagging came into
20 effect. That would be called the asbestos cloth at the
21 time and the adhesive to hold it. The final application
22 is lagging -- is considered lagging.

23 THE JUDGE: The final application gives the
24 name to the job?

25 THE WITNESS: That's correct.

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1 THE JUDGE: Just as the asbestos cloth?

2 THE WITNESS: The asbestos cloth at the time
3 this is in the first years of application. Now, we've
4 changed over.

5 THE JUDGE: He worked on ships and submarines.
6 Is that correct?

7 THE WITNESS: He worked on submarines.

8 THE JUDGE: Just on submarines?

9 THE WITNESS: Just on submarines.

10 THE JUDGE: Would you say that the quarters
11 on submarines are much closer, much smaller?

12 THE WITNESS: Yes, they are.

13 THE JUDGE: Is there much ~~more~~ occupational
14 hazard from asbestos in close quarters on submarines than
15 there would be on ships?

16 THE WITNESS: That I couldn't say. It's been
17 said that in many occasions probably the man that is working
18 away from here are probably receiving more asbestos dust
19 than what the worker himself is receiving. That I couldn't
20 say. I'm not an expert on that.

21 THE JUDGE: I didn't understand that answer.

22 THE WITNESS: If a man is working directly on
23 it, his motions probably spread the dust away from him and
24 he isn't receiving as much as the man who is working two
25 or three feet away from him.

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1 THE JUDGE: I know I wasn't referring to that
2 type. I was just asking you about submarines as distinct
3 from larger ships. Is there -- in your experience, is there
4 more danger from exposure to asbestos dust?

5 THE WITNESS: I would feel so.

6 THE JUDGE: You mentioned this mud, and you
7 said that asbestos dust is not used to make this mud any
8 longer. Is that right?

9 THE WITNESS: That is correct.

10 THE JUDGE: When was this discontinued?

11 THE WITNESS: We did away with this quite some
12 time ago. One reason was that they had problems with it.
13 They couldn't get the chloride contents low enough to be
14 acceptable to be used. This is why they did away with the
15 use of the asbestos cement.

16 THE JUDGE: When was that?

17 THE WITNESS: Like I said, I believe as far
18 back as five years ago we discontinued the use of any
19 asbestos cement.

20 THE JUDGE: Is there any further redirect
21 examination, Mr. Beane?

22 MR. BEANE: I don't think so.

23 THE JUDGE: Any further recross examination?

24 RECROSS EXAMINATION

25 BY MR. SHAFNER:

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1 Q As a supervisor, was he still working with
2 the ladders in that area?

3 A That's right. In the general vicinity.
4 He had charge of all the jobs that the men under him did.

5 Q So that the men assigned to him, under him,
6 would be working with asbestos also?

7 A Yes. But there's many other jobs they also did.
8 They have ventilation, they have plastic, many, many other
9 duties.

10 Q As I understand your testimony, Mr. Guillote,
11 Mr. Sobolewski was working with something not involving
12 asbestos; the fellow next to him was working with asbestos,
13 he might be getting a greater dose of asbestos exposure
14 than he would have when he was working with --

15 A I have heard this.

16 Q Do you agree with that?

17 A It could be possible.

18 Q Do welders -- they are not working in your
19 department, are they?

20 A No, they're not.

21 Q Do they use asbestos materials to shield
22 in insulation?

23 A Many of the trades do. There's very few of
24 the trades that don't use asbestos products. It's a miracle
25 product. They considered it for a long time to be so.

(SMOKER)

221a MEDICARE NO.

SOC. SEC. NO.

7/9/73

HOSP. INS. PLAN E.B. INS. PT. THRU WORK		NAME SOBOLEWSKI, MR. JOSEPH S.		ROOM NO. E280	CASE NO. 372-C
NAME OF INS. CO. (HOURLY)		RESIDENCE ADDRESS 10 COMSTOCK AVE., UNCASVILLE, CT 06382		TEL. NO. 848/9437	ACCOM. SP
SUBSCRIBER DEPT #246/12568		DATE OF BIRTH APR. 13/14	AGE 59	SEX XX	ADMIT. DATE JULY 1/73
GROUP		ATTENDING DOCTOR DR. MALCOLM ELLISON		TIME 10:00AM	SERVICE SURG
INS. ASSIGN		RESPONSIBLE PARTY SAME		HOME TEL. NO.	
POLICY NO.		CERT. NO.		BUSINESS TEL. NO.	
AGENCY SELF PAY		ADMITTING DIAGNOSIS AXILLARY LYMPHADENOPATHY		PREV. ADM. NAME & DATE NONE	
EMPLOYER E.B. COMPANY		RACE XX	PLACE OF BIRTH PENNSYLVANIA	MARITAL STATUS XX	CHURCH ATTENDED - RELIGION C/ST. JOHN'S/UNCASVILLE
ADDRESS GROTON, CONN.		NEAREST RELATIVE SOBOLEWSKI, MRS. HELEN B.		HOW RELATED WIFE	
OCCUPATION PIPE COVERER		ADDRESS SAME		HOME TEL. NO. SAME	
DISCH. DATE JUL 7 1973		ADMITTING OFFICER C. BONANNO		BUSINESS TEL. NO. WK/ 449-3364	
DETAILS OF ACCIDENT - PERSONS INVOLVED - ADDRESSES NEIGHBOR: MR. REEVES #442-4181		PATIENT'S MAILING ADDRESS (IF DIFFERENT THAN ABOVE) P.O. BOX 37, UNCASVILLE, CT 06382		INFORMATION GIVEN BY WIFE VIA TEL/TR/KAE	

CHART COPY

CHART COPY

FINAL DIAGNOSIS

Probable carcinoma of Left Lung with axillary lymph node metastasis

162.1

196.1

PLICATIONS ARISING IN HOSPITAL *None*

OPERATIONS

Excision of axillary lymph node 7/1

bronchoscopy & biopsy 7/5

37.1

91.3

24.8

94.6

TREATMENT AND COURSE

See Dr. [unclear]

CONSULTATIONS

Clayton Wade

SIGNATURE OF HOUSE OFFICER

SIGNATURE(S) OF ATTENDING PHYSICIAN(S)

HOSPITAL INFECTION

YES ☐ NO ☐

DISCHARGE STATUS

DISCHARGED ALIVE ☒ DIED ☐

WITH APPROVAL ☒ AGAINST ADVICE ☐ TRANSFERRED ☐

Mr. Clayton Wade

Report of Consultation

Name SOBOLLEWSKI, Mr. Joseph S.

372 091

Case No.

10 Constock Ave., Uncasville, Conn

E B. Ins.

Date of Consultation

7/2/73

Thank you for allowing me to see this interesting patient. Mr. Sobolewski entered the hospital because of mass in the axilla. A biopsy of this mass showed metastatic poorly differentiated carcinoma. His chest x-ray shows a large mass in the left hilum. His upper lobe was collapsed and from obstruction. I think that the metastatic nodules in the axilla are secondary to carcinoma and the bronchoscopy might provide some information for the Radiotherapist and guiding the treatment. I will carry out the bronchoscopy and discuss with you. The prognosis, unfortunately, I think in this patient is poor.

PW:eld

D 7/21/73

T 7/24/73

CC - Dr. Wade - (2)

Signature of Resident Consultant

Signature of Consultant

LM-181(Nsg)

1-2

TISSUE REPORT

308 W. J. JOSEPH
372-091 E280 SP SURG DR. ELLISON
4/18/14 572
10 COMSTOCK AVE., UNCASVILLE, CT.
Room No. E280 Case No. 372/091

Patient SOBLEWSKI, Joseph Age 59 Sex M Room No. E280 Case No. 372/091
Doctor Wade Date of Operation 7/5/73 Date of Report 7/6/73

Laboratory Number: S73-#4695

Clinical Diagnosis: Carcinoma left lung

Specimen A. Biopsy of carina B. Bronchial washings

C Macroscopic Examination

A. Received is a minute fragment of tissue measuring approximately 2.0 mm. in diameter.
(1) (SE) (MK/pd)

B. Received are approximately 10.0 cc. of bloody frothy fluid. (JK/pd)

Microscopic Examination:

A. Microscopic examination reveals a fragment of bronchial mucosa. In one area, a fragment of the mucosa is ulcerated and there is acute inflammatory reaction with polymorphonuclear leukocytes extending into the submucosal region. In the region where the mucosa has been preserved, there is also infiltration of the mucosa by polymorphonuclear leukocytes. The bronchial glands are dilated and are filled with mucous. No atypical cells are seen.

B. Microscopic examination reveals a cell block. The cell block contains predominantly inflammatory cells with many polymorphonuclear leukocytes and macrophages. In addition, necrotic epithelial cells and sheets of columnar epithelial cells which are poorly preserved are seen. There is a rare clump of small cells with prominent dark nuclei with prominent nucleoli which are moderately atypical, but are not entirely diagnostic of tumor. (CK/sb)

DIAGNOSIS:

A. Segment of bronchial mucosa with acute ulceration.

B. Cell block with inflammatory cells, necrotic epithelial cells and rare clumps of atypical cells. The atypical cells are not diagnostic of carcinoma.

PAS 2

SOBOWSKI, Joseph

S73-#4695

Examined by

Michael Kashgarian, M.D. Pathologist

(-3)

TISSUE REPORT

SOBOLEWSKI, MR. JOSEPH

372-091 E280

SP SURG DR. ELLI

4/18/14 591

10 CONSTOCK AVE., CHICAGO, ILL. 60611

Room No. E280

Case No. 372-091

Patient SOBOLEWSKI, Joseph

Age 59 Sex M

Doctor Ellison

Date of Operation 7/2/73

Date of Report 7/3/73

Laboratory Number: S73-#4624

Clinical Diagnosis: Axillary lymphadenopathy with axillary lymph node
Specimen: Axillary lymphadenopathy with axillary lymph node FS

Macroscopic Examination

Received in the fresh state from the operating room is a lymph node. It measures 3.0 cm. in maximum diameter. It is discoid in shape measuring 1.5 cm. in thickness. On section it has a gray-pink shining surface. A slightly firmer area is noted in the center. (2) (EC)

FROZEN SECTION DIAGNOSIS: Malignant. (EC)

Microscopic Examination:

Microscopically, sections of the frozen section tissue and additional sections of the material are examined. The node is extensively replaced with malignant tumor. The malignant tumor consists of hyperchromatic cells. Mitotic figures are seen. A scirrhous reaction surrounds some of the nests of tumor. In some portions of the node, residual lymphoid material is seen. (EC/sb)

DIAGNOSIS:

Axillary lymph node with metastatic, poorly differentiated carcinoma.
PAS 1

Examined by

Edwin M. Clayton, M.D. Pathologist

SOBOLEWSKI, Joseph

S73-#4624

SUMMARY

225a

SOBOLESKI, JOSEPH

Case No. 372-091

This patient is a 59 year old white married male who was admitted to this hospital on July 1st, 1973 complaining of swelling of the right axilla. He has in general been well and unwillingly he is seeking medical attention. About six months ago he had routine chest x-ray at the Electric Boat Co. and at that time was found to have abnormal chest x-ray and it was suggested that he consult his physician. He, however, had no symptoms and did not feel it was necessary until he saw his physician about one week before admission and at that time weight had fallen from 152 to 129 lbs. and he noted small asymptomatic swelling of the right groin. He is a heavy smoker, has had no chronic cough or bloody sputum.

Admission physical examination revealed a w/d, w/n, alert and cooperative white male who was in no acute distress. There was a 3 x 3 cm. large axillary lymph node with several smaller left axillary nodes with shotty cervical and inguinal nodes present. Heart was normal. Lungs showed diminished breath sounds at the left base and rales at the right base. Liver was at the costal margin plus 1. No other abnormalities were apparent.

Admission Hgb. 13.8 gm., Hct. 41, WBC 7,700 with 70 polys, 26 lymphs, 3 E and 1 B. Urine showed 14-18 white cells, 3-4 red cells, FBS 96. BUN 10. VDRL negative. Sedimentation rate 42. T.P. 6.7 with A.G. ratio 3.9:2.8. SGPT 14. Bilirubin 0.5. Alk. phos. 100. Clean urine showed colony count of 10,000/cc. and moderate growth of Alpha Strep. Bronchial washings were positive for malignancy with poorly differentiated carcinoma. Sputum cytology showed metaplasia on three occasions. EKG was within normal limits.

Chest x-ray on admission showed left hilar mass with partial collapse of the left upper lobe. X-ray of the abdomen showed no abnormality. Metastatic series showed no gross evidence of metastatic disease.

On 7/3/73 left axillary lymph nodes was excised and frozen section revealed undifferentiated carcinoma. It was thought this probably was primary in the lung. The patient was then seen in consultation by Dr. Wade, who agreed, and bronchoscopy was carried out with bronchial biopsy on 7/5/73, and this revealed an obstruction of the left upper lobe bronchus. Biopsy revealed no evidence of definite carcinoma although there were rare clumps of atypical cells.

In the hospital the patient remained afebrile and asymptomatic and he was discharged on 7/7/73 ambulatory and without complaint.

The patient's problem was thoroughly discussed with his wife and also with the patient and he has an appointment to be seen at Uncas-on-Thames Phelps Radiation Centre in several days for further palliation with radiation and/or chemotherapy. The patient is reluctant to consider this modality and it is hoped that he will return for further followup even though prognosis in general is poor.

ME/bjr

D: 7/8/73.

T: 7/11/73

CC: Dr. Malcolm Ellison

Dr. Wade

Dr. Wies

Uncas-on-Thames Phelps Radiation Center

MC

1-5

THE LAWRENCE AND MEMORIAL HOSPITALS
NEW LONDON, CONN.
CHART COPY

101172 266a

MEDICARE NO. 375/3
SOC. SEC. NO. 82200

HOSP. INS. PLAN E.B.XINS.PT TH WORK NAME SOBOLEWSKI, MR. JOSEPH S.
NAME OF INS. CO. (HOURLY) RESIDENCE ADDRESS P.O. BOX 37 10 COMSTOCK AVE. UNCASVILLE, CT. 848/9437 SP
SUBSCRIBER DEPT/246/12568 DATE OF BIRTH APR 18/14 AGE 59 SEX XX F ADM. DATE OCT 7/73 TIME 8:50 PM SERVICE SURG
GROUP IVS. ASSIGN AT TENDING DOCTOR DR. M. ELLISON REFERRING DOCTOR E.R.
POLICY NO. CERT. NO. RESPONSIBLE PARTY SELF & INS ADDRESS HOME TEL. NO. BUSINESS TEL. NO.
SELF PAY BL. CR. WK. CP. CITY OR TOWN STATE OTHER INS. AGENCY ADMITTING DIAGNOSIS CA LUNG Metastasis
EMPLOYER E.B.CO. RACE XX N OTH PLACE OF BIRTH PENNSYLVANIA MARITAL STATUS XX W U SEP. CHURCH ATTENDED - RELIGION C/ST. PETER & PAUL N.
ADDRESS GROTON, CONN. NEAREST RELATIVE SOBOLEWSKI, MRS. HELEN B. HOW RELATED WIFE
OCCUPATION PIPE COVERER TEL. NO. ADDRESS SAME HOME TEL. NO. BUSINESS TEL. NO.
DISCH. DATE OCT 10 1973 TIME AM PM ADMITTING OFFICER G. GRANDE/J. TIFFANY INFORMATION GIVEN BY WIFE & PREV ADM.
DE CALLED BY IDENT. PERSONS INVOLVED - ADDRESSES PATIENT'S MAILING ADDRESS (IF DIFFERENT THAN ABOVE)
Expired EMERGENCY ADMISSION(D) SON: MR. JOSEPH W. SOBOLEWSKI
NEIGHBOR: MR. REEVES # 442/4181 Rev. V. Grabek #1/502/965/2598

FINAL DIAGNOSIS

Anointed 10-7-73
Carcinoma of Lung with metastasis

COMPLICATIONS ARISING IN HOSPITAL

OPERATIONS

TREATMENT AND COURSE

CONSULTATIONS

HOSPITAL IN

YES ☐

DISCHARGE STA

DISCHARGED ALIVE DIS

☐ WITH APPROVAL
☐ AGAINST ADVICE
☒ TRANSFERRED

SIGNATURE OF HOUSE OFFICER

SIGNATURE(S) OF ATTENDING PHYSICIAN(S)

2-1

WRENCE AND MEMORIAL HOSPITALS
NEW LONDON, CONNECTICUT
SUMMARY

207a

Name SOBOLEWSKI, Mr. Joseph S.

Case No. 375-807

This patient is a 59 year old white married male who was admitted to this hospital on October 7, 1973 complaining of shortness of breath and generalized weakness. He had a previous admission to this hospital in July, 1973 with a swelling of the right axilla and at that time biopsy of right axillary nodes showed undifferentiated carcinoma that apparently arose in the left lung. Chest x-ray was suggestive and the patient was seen in thoracic consultation with Dr. Wade where bronchoscopy revealed obstruction of the left upper lobe bronchus and rare clumpsof atypical cells were seen in the bronchial biopsy. It was thought that this patient had a primary carcinoma of the lung with axillary lymph node metastasis and an appointment was made at the Phelps Radiation Center for radiation therapy and chemotherapy.

The patient was unwilling to undergo this treatment and he remained at home where he was treated by his physician with 5 Fluro-Uracil and nitrogen mustard; however, he slowly went downhill, lost weight, became weak and debilitated and became semicomatose requiring hospitalization.

Admission physical examination revealed a thin, elderly white male who was dyspneic and in moderate distress with some mental confusion. His temperature was 100.4°. Bilateral axillary lymph nodes were palpable. Coarse wheezes and rhonchi were present over the entire right lung field and there was dullness and diminished breath sounds over the entire left lung field. The liver was at the costal margin +3 and the bladder at the umbilicus.

Admission Hgb. was 15.0, Hct. 43.9, white count 10,300 with 87 polys, 4 nonsegs, 9 lymphs, 3 monos, 1 eos.. Urine showed 70-80 white cells and occasional red cell. Chest x-ray showed further increase of the haziness of the entire left lung field with a soft lobular mass in the left upper mediastinum and left hilum. There was diffuse streaking and hazy density of the right lower lung field indicative of pneumonitis, no definite destructive osteolytic or osteoblastic metastases were demonstrated.

In the hospital the patient continued to rapidly go downhill. His temperature rose to 106° and he quietly expired on 10/10/73. Permission for post mortem examination was requested but was not granted.

E/mcm

D 10/11/73

T 10/12/73

cc: Dr. Ellison 2

Dr. Wies 1

Dr. Wade 1

At <

228a

CERTIFICATE OF DEATH
CONN. STATE DEPT. OF HEALTH

DECLASED—NAME Joseph Stanley Sobolewski		SEX Male	
DATE OF BIRTH (MONTH DAY YEAR) 4/18/14		DATE OF DEATH (MONTH DAY YEAR) 10/10/73	
COUNTY OF DEATH New London	TOWN OF DEATH New London	HOSPITAL OR OTHER INSTITUTION Lawrence & Memorial Hospital	
CITY & STATE OF BIRTH (Country, if not U.S.) Wilkes-Barre, Pa.		CITIZEN OF (Country) USA	MARRIED, NEVER MARRIED, WIDOWED, DIVORCED, LEGALLY SEPARATED Married
SOCIAL SECURITY NUMBER 045-09-7446		KIND OF BUSINESS OR INDUSTRY Elec. Boat Div, Gen. I	
RESIDENCE—STATE Conn.	COUNTY New London	TOWN Uncasville	STREET AND NUMBER 10 Comstock Avenue
WAS DECEASED A VETERAN? (SPECIFY YES OR NO) NO		IF YES, GIVE WAR NO	
FATHER—NAME Joseph Sobolewski		MOTHER—Maiden Name Melania Zaleski	
INFORMANT—NAME Mrs Helen Sobolewski		MAILING ADDRESS (STREET OR R.F.D. NO., CITY OR TOWN, STATE, ZIP) 10 Comstock Ave. Uncasville, Conn. 063	
PART I. DEATH WAS CAUSED BY: (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c))			
1. IMMEDIATE CAUSE Carcinoma of Lung with Metastases			
2. DUE TO, OR AS A CONSEQUENCE OF: 1 year			
3. DUE TO, OR AS A CONSEQUENCE OF: 1 year			
PART II. OTHER SIGNIFICANT CONDITIONS: (CONDITIONS CONTRIBUTING TO DEATH BUT NOT RELATED TO CAUSE GIVEN IN PART I (1))			
ACCIDENT, SUICIDE, HOMICIDE, OR UNDETERMINED (SPECIFY)		DATE OF INJURY (MONTH DAY YEAR)	HOUR
PLACE OF INJURY (AT HOME, FARM, STREET, FACTORY, OFFICE BLDG., ETC. (SPECIFY))		LOCATION (STREET OR R.F.D. NO., CITY OR TOWN, STATE)	SURGERY RELEVANT TO CONDITION REPORTED IN PART I (1) (YES OR NO)
CERTIFICATION—PHYSICIAN: I ATTENDED THE DECEASED July 30 1973, Oct 10 1973		DEATH OCCURRED MONTH DAY YEAR 10 10 73	ON THE DATE, AND TO THE BEST OF MY KNOWLEDGE TO THE CAUSE OF DEATH
CERTIFICATION—MEDICAL EXAMINER: IN MY OPINION, ON THE DATE AND DUE TO THE CAUSE(S) STATED, DEATH RESULTED OR ABOUT		HOUR OF DEATH	THE DECEASED WAS PROLONGED DEAD MONTH DAY YEAR HOUR
CERTIFIER—NAME (TYPE OR PRINT) DR. COLIN M. ELLISON		SIGNATURE <i>Colin M. Ellison</i>	
MAILING ADDRESS—CERTIFIER 321 Montross Ave., New London, Conn. 063		DATE SIGNED (MONTH DAY YEAR) 10-16-73	
BURIAL, CREMATION, REMOVAL (SPECIFY) Burial	CEMETERY OR CREMATORY—NAME Cedar Grove	LOCATION New London, Conn.	
DATE (MONTH DAY YEAR) 10/13/73	FUNERAL HOME—NAME AND ADDRESS (STREET OR R.F.D. NO., CITY OR TOWN, STATE, ZIP) Kelley-Bernier & Fremont F/H New London, Ct. 063		
FUNERAL DIRECTOR OR EMBALMER—NAME Roger J. Bernier	NAME OF EMBALMER (IF BODY WAS EMBALMED) Roger J. Bernier		LICENSE NUMBER 1491
THIS CERTIFICATE REQUIRED FOR RECORD ON October 11, 1973		REGISTER <i>Christine P. (Hewitt) Post</i>	

I certify that this is a true transcript of the information on the death record as recorded in this office.

Dated **OCT 11 1973** at **New London, Conn.** Registrar of Vital Statistics
Christine P. (Hewitt) Post

249a

HOSPITAL
VISIT REPORTGENERAL DYNAMICS
Electric Boat Division

108187

☐ GROTON, CONN.
☐ QUINCY, MASS.

LAST NAME	FIRST NAME	INITIAL	BADGE NO.	AGE	SEX M ☒ F ☐	SHIFT 1 ☐ 2 ☒ 3 ☐	HOME ADDRESS
Sobolewski	Joseph		12568				
OCCUPATION	DEPARTMENT	FOREMAN OR SUPERVISOR					
	246						
☐ INDUSTRIAL	☒ NON-INDUSTRIAL	DISPENSARY VISIT FOR ILLNESS ☐		DISPENSARY VISIT FOR INJURY ☐			
LENGTH OF SERVICE		MARITAL STATUS		ABSENTEEISM EXAM. FOR ILLNESS ☐		ABSENTEEISM EXAM. FOR INJURY ☐	
POSITION: PHYSICALLY FIT TO RETURN TO				LAURENCE ☐		PHYS. OFFICE ☐	
REGULAR WORK ☐				OTHER HOSP. ☐			
RESTRICTED WORK ☐ FOR _____ DAYS							

REPORT OF VISIT

DATE	VISIT REVISIT	HOUR AM PM	History of plant injury
7-25-73		4:35	
REASON FOR VISIT: EMPLOYEE'S OWN OPINION			
L.D.W. 6-29-73			
Surgery @ C.H. Hospital 6 days			
Under care of Dr. Ellison			
PHYSICAL EXAM			
Chest X-ray -			
This lesion removed from arilla area			
INITIAL TREATMENT			
man to be permanently housed from			
Contamination and Radiation Area's			
Continue pt. treatment.			
DATE TO RETURN			
continued to 8-1			
REMARKS:			

FOURTH GENERAL DYNAMICS

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

C-4

230a

GENERAL DYNAMICS
Electric Boat Division

Insults Asbestos

CHEST SURVEY

14x17 in.

NT II

Survey No. *12568*

Survey Date *2-4-71*

NAME

Check No.

Zobolowski Joseph S

FINDINGS

246
12568
Gr 56

IMPRESSION

☐ UNSATISFACTORY EXAMINATION

☒ A—NEGATIVE CHEST

☐ B—ABNORMAL CHEST
No further X-Ray examination recommended

☐ C—ABNORMAL CHEST
Additional X-Ray examination recommended as follows:

- | | |
|---|---|
| ☐ 1 ANOMALY, RIB OR LUNG | ☐ 9 CALCIUM DEPOSIT, LUNGS |
| ☐ 2 ACQUIRED BONE LESION | ☐ 10 CALCIUM DEPOSIT, NODES |
| ☐ 3 PLEURAL SCARRING | ☐ 11 QUESTION PULMONARY LESION |
| ☐ 4 PLEURAL EFFUSION | ☐ 12 PULMONARY LESION |
| ☐ 5 ABNORMAL AORTA | ☐ 13 |
| ☐ 6 ABNORMAL HEART | ☐ 14 |
| ☐ 7 ABNORMAL MEDIASTINUM | |
| ☐ 8 ABNORMAL DIAPHRAGM | |

Windsor Sp. 82 *alt. Reg.* *Reg.*
1023 *Reg.* *Reg.*

EXPLANATION OF CHEST SURVEY REPORTS

"Unsatisfactory examination" indicates that for technical reasons, the film is not of diagnostic quality and patient should be returned to the survey unit for repetition of this study at the earliest possible moment.

"Negative Chest" as used in this department means that x-ray examination has revealed no abnormality of any thoracic structure.

When deviations from normal are recognized they will be indicated under "findings".

The examiner's opinion regarding the probable clinical significance of such findings will be indicated under "impression". When checked under "B" a survey roentgenogram shows some abnormality which does not appear to be of immediate clinical significance.

When the examiner checks his impression under "C" he has expressed the opinion that more elaborate roentgenological examination is highly desirable.

CHEST SURVEY

C-5-1

231a

GENERAL DYNAMICS
Electric Boat Division

MEDICAL REPORT

INDEMNITY INSURANCE COMPANY OF NORTH AMERICA

FILE. TIME EMPLOYED
WAGES PER HOUR \$ WAGES PER DAY \$
NO. HOURS WORKED PER DAY
NO. DAYS WORKED PER WK AV. WEEKLY EARN \$
ESTIMATED VALUE OF OTHER

NAME: *Sobolewski Joseph S* DEPT. # *246* BADGE NO. *12568* AGE *57* SEX *M* ☒ *1* ☐ *2* ☐ *3*

ADDRESS: *10 Comstock Ave Greenville S.C. 29615* FOREMAN OR SUPERVISOR *James H. Haggard*

CHECK (V) MARRIED SINGLE WIDOWED WIDOWER ☒ *James H. Haggard*

CITIZEN OF *Poland* SPEAK ENGLISH - YES ☒ NO ☐

☒ INDUSTRIAL ☐ NON-INDUSTRIAL

LENGTH OF SERVICE *15 yrs* SSN *1-246*

POSITION - PHYSICALLY FIT TO RETURN TO:
REGULAR WORK ☐ RESTRICTED WORK FOR *15* DAYS

DISABILITY BEGAN *19* PROBABLE LENGTH OF DISABILITY *15* DAYS

HAS INJURED RETURNED TO WORK? ☐ LAWRENCE ☐ PHYS. OFFICE ☐ OTHER HOSP. ☐

DATE OF INJURY: *July 26, 71* PM EXACT LOCATION OF PLACE WHERE INJURY OCCURRED: *Boat 679 (reactor) Steam Generator*

NO. YD. ☐ SO. YD. ☐ YARD ☐ SHOP ☐ WAYS ☐ WET DOCK ☐ OTHER ☐ DATE: *August 11, 71*

EMPLOYEE'S OWN OPINION: *Plant 679 (reactor) Steam Generator. I was stated for this small module of upper part of right side. States he has been working with as best as may have been involved in accident.*

3 of chest
2 of chest
to see Ophthalmologist.

INJURY RESULT IN PERMANENT DEFECT? ☐ IF SO, WHAT?

TO RETURN ☐

MARKS:

THE ABOVE ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND I UNDERSTAND THIS WILL BECOME A PART OF MY PERMANENT RECORD.

8/11/71
DATE

Joseph Sobolewski
EMPLOYEE

EMPLOYER'S FIRST REPORT OF INJURY OR OCCUPATIONAL ILLNESS

(See Instructions on reverse)

1. Name of employee JOSEPH A. GILBERT		2. Address 10 Constock Ave. Hartford, Conn.	
3. Sex ☒ Male ☐ Female		4. Occupation Laborer	
5. Employer GENERAL DYNAMICS/ELECTRIC BOAT		6. Type of business SUBMARINE CONSTRUCTION & REPAIR	
7. Address GROTON, CONNECTICUT.		8. Insurance carrier INSURANCE CO. OF NORTH AMERICA	
9. Date of injury 7-26-71	10. Time PM	11. Place where injury occurred 670 East	
12. Description of accident Man had been working with asbestos and no			
13. Nature of injury or occupational illness has been inhaled in small			
14. Signature of employer <i>W. MacDonell</i>		15. Date 8-2-71	

U.S. DEPARTMENT OF LABOR

LONGSHOREMEN'S AND HARBOUR WORKERS' COMPENSATION PROGRAM
(FORMERLY FORM U.S. 201A, WHICH IS OBSOLETE)

Form BEC-202a, Sept. 1963

233a

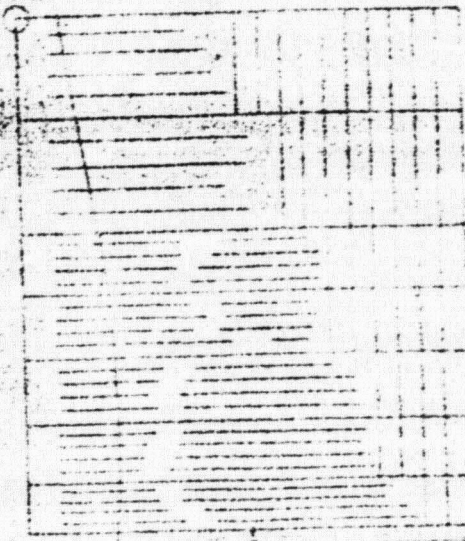
PATIENT RECORD FORM FOR EARLY DETECTION OF CHRONIC BRONCHITIS

Sobieski, Joseph J.

11/9/72

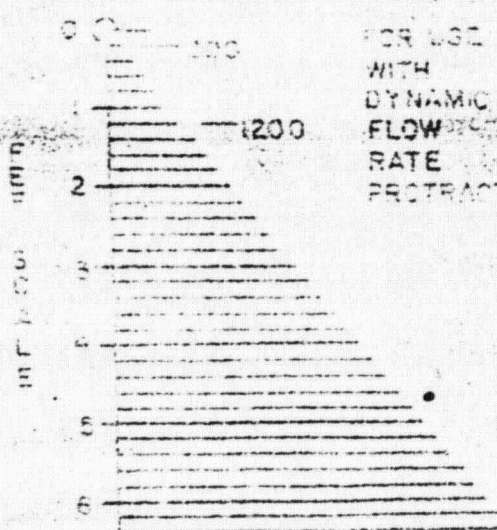
65 1/2 53 150

FEV₁ (l)



FEV₁ (l) SECONDS

FOR FILE, STAPLE SPIROGRAM HERE



FOR USE WITH DYNAMIC FLOW RATE PROTRACTOR

PREDICTED DYNAMIC VALUES

OBSERVED DYNAMIC VALUES

IMPORTANT RATIOS

FORCED VITAL CAPACITY 3.78

FORCED VITAL CAPACITY 2.9

FORCED EXPIRATORY VOLUME IN ONE SECOND 2.57

FORCED EXPIRATORY VOLUME IN ONE SECOND 2.5

FEV₁ (200-1200) USED 2

FEV₁ (200-1200) USED 2

FEV₁ (25% - 75%) USED 2

FEV₁ (25% - 75%) USED 2

WV₁ (25% - 75%) USED 2

WV₁ (25% - 75%) USED 2

PATIENT COOPERATION

GOOD

FAIR

POOR

TESTED BY

J. H. H. H.

EVALUATION

NORMAL

RECOVERED COMPLETE

WORK UP



spirostat

PHOTOMETRIC RECORDING SPIROMETER

MARION LABORATORIES, INC.

KANSAS CITY, MO 64107

5-14

GENERAL DYNAMICS
Electric Boat Division

CHEST SURVEY
14X17 E.H.

Survey No.

12568

Survey Date

2/8/72

NAME

Halewski, Joseph S

276
Check No.

12568

IMPRESSION

FINDINGS

Age 57

- 1 ☐ ANOMALY, RIB OR LUNG
- 2 ☐ ACQUIRED BONE LESION
- 3 ☐ PLEURAL SCARRING
- 4 ☐ PLEURAL EFFUSION
- 5 ☐ ABNORMAL AORTA
- 6 ☐ ABNORMAL HEART
- 7 ☐ ABNORMAL MEDIASTINUM
- 8 ☐ ABNORMAL DIAPHRAGM

- 9 ☐ CALCIUM DEPOSIT, LUNGS
- 10 ☐ CALCIUM DEPOSIT, NODES
- 11 ☒ QUESTION PULMONARY LESION
- 12 ☐ PULMONARY LESION
- 13 ☐ Any A.R.T.
- 14 ☐

- ☐ UNSATISFACTORY EXAMINATION
- ☐ A-NEGATIVE CHEST
- ☐ B-ABNORMAL CHEST
No further X-Ray examination recommended
- ☒ C-ABNORMAL CHEST
Additional X-Ray examination recommended as follows:

PA & Lateral 10K
F. J. H.

EXPLANATION OF CHEST SURVEY REPORTS

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"Negative Chest" as used in this department means that x-ray examination has revealed no abnormality of any thoracic structure.

When deviations from normal are recognized they will be indicated under "findings".

The examiner's opinion regarding the probable clinical significance of such findings will be indicated under "impression". When checked under "B" a survey roentgenogram shows some abnormality which does not appear to be of immediate clinical significance.

When the examiner checks his impression under "C" he has expressed the opinion that more elaborate roentgenological examination is highly desirable.

CHEST SURVEY

235a

GENERAL DYNAMICS
Electric Boat Division

REQUEST FOR RADIOLOGIC CONSULTATION

(Print or Type)

Name Sokolowski, Joseph S Date 2/18/72
 Clock Number 12568 Sex M
 Address _____

Previously X-Rayed here? _____

Present Appointment: Date _____ AM _____ PM _____

Essential Clinical Data: _____

PA - Lt. 1-week
 Man states that he had a cold and
 still has slight symptoms
 Request examination of Chest PA - Lt. Lt.

May dressing be removed? _____

Signature of referring M.D. _____

Came to X-Ray by: Stretcher _____ Walked _____

X-Ray Report: _____

X-Ray No. 12568

2/18/72

There now appears to be infiltration at both bases and in the lateral view there is
 infiltration present in the left upper lobe. The cardiovascular shadow is not enlarged
 but does show some slight left ventricular prominence. The hilar vessels are within normal
 limits. This most likely represents a pneumonic process, probably a primary atypical
 pneumonia, however, serial films are suggested for differential diagnosis, particularly
 reexamination in the PA and right and left lateral projections in one week.

F. J. Fagan, M.D./fcp

Radiologist

238a

GENERAL DYNAMICS
Electric Boat Division

REQUEST FOR RADIOLOGIC CONSULTATION

(Print or Type-write)

Name Sobolewski, Joseph S WIDDL
Clock Number 12568 Dept. No. 246

Date 3/1/72Age 57Sex M

Address

Previously X-Rayed here?

When?

Present Appointment: Date

Hour

AM

PM

Essential Clinical Data:

Repeat Chest PA - Bx Left Lat

Request examination of

Chest PA - Bx Left Lat

May dressing be removed?

Signature of referring M.D.

Came to X-Ray by: Stretcher

Walked

X-Ray Report:

X-Ray No. 12568

CHEST

3/1/72

This examination was compared with the previous examination of 2/15/72. There is no definite change in the appearance of the lungs. The cardiovascular shadow is about the same in size and contour and the diaphragms are about the same in position and contour. Although this probably represents some type of pulmonary fibrosis, other forms of chronic pulmonary disease should be excluded by further study.

P. J. Fagan, M.D./cl

Radiologist

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228a

MEDICAL HISTORY QUESTIONNAIRE

(To be completed by employee or applicant)

These questions, as well as the physical examination, are to aid us in insuring you in a job safe to yourself and others according to your physical ability. Your answers will be treated with strict confidence and will become a part of your medical record.

READ EACH QUESTION CAREFULLY

FAMILY HISTORY	AGE OF FATHER	IF DEAD AGE AT DEATH	CAUSE OF DEATH
	61		
Check if any have been had	AGE OF MOTHER	IF DEAD AGE AT DEATH	CAUSE OF DEATH
TUBERCULOSIS HIGH BLOOD PRESSURE HEART DISEASE STROKES DIABETES CANCER MIGRAINE KIDNEY DISEASE NERVOUS TROUBLES	BROTHERS AND SISTERS	CAUSE OF DEATH	
	AGE OF HUSBAND OR WIFE	IF DEAD AGE AT DEATH	CAUSE OF DEATH
	53		
CHILDREN	NO LIVING	NO DEAD	CAUSE OF DEATH
	CHILDREN	CAUSE OF DEATH	

HAVE YOU EXPERIENCED WHAT YOU CONSIDER UNUSUAL OR EXCESSIVE SYMPTOMS, SUCH AS:

	WHEN	HOW LONG	INDICATION	WHEN	HOW LONG
LOSS OR GAIN IN WEIGHT			INDICATION		
NAUSEA			PAIN OR CRAMPS		
VOMITING			TROUBLE WITH URINATING		
CHANGE IN BOWEL ACTION			BLOOD SPITTING		
SHORTNESS IN BREATH			NERVOUS BREAKDOWN		
PALPITATION			SWELLING		
CHEST PAIN			PERSISTENT LUMPS		
COUGH			PERSISTENT SORES		
LUNG TROUBLE			BACKACHE		
INSOMNIA					

Have you been exposed to any type or form of medical radiation, routine chest and dental X-rays? When? Where? Include any mammal X-rays (C.I. series).

Have you been exposed to any type of industrial work where there is radiation exposures? When and where and how long exposed?

Yes, in the past, several years ago.

COMMENTS

Each item 1 through 40 answered yes must be fully explained in this space. Number each explanation with same number as the item.

INTERVAL EXAMEE EMPLOYEE

I certify that I have had no illnesses, accidents, or operations or any change in my physical status since my last physical examination with General Dynamics Corporation Electric Boat Division.

Date 2-23

Employee's Signature

5-9

229a

GENERAL INFORMATION		CBC	
Patient Name		Sex	
Age		Date	
Hematocrit	GMV	Sed. Rate	
RBC		Hematocrit	Volume
WBC		MCV	
Differential		MCH	
Platelets		MCHC	
Smear			
Iron Stain			
Urea Nitrogen			
Creatinine			
BUN			
Other			
Comments			
Technician			

5-10

READ EACH QUESTION CAREFULLY

Circle
YES NO

YES NO

1. Have you ever had a heart attack or the Electric Blue condition?

YES NO

2. Have you ever had a hernia or rupture?

YES NO

3. Have you ever had a serious illness?

YES NO

4. Cancer, Tuberculosis, Heart Trouble, Lung Trouble, Rheumatic Fever, etc.

YES NO

5. Have you ever been a patient in a hospital?

YES NO

6. If so, why?

YES NO

7. Do you have any trouble with your hands, feet, or joints?

YES NO

8. From chemicals or solvents?

YES NO

9. Are you subject to Asthma, Hay Fever, or Allergies?

YES NO

10. Specify:

YES NO

11. Are you allergic to any drugs or medications?

YES NO

12. If so, please list:

YES NO

13. Have you ever had an alcohol problem?

YES NO

14. Do you take any form of medication?

YES NO

15. Asthma, Hypertension, Others:

YES NO

16. Have you ever been told that you have a stomach ulcer?

YES NO

17. Have you ever had any swelling or pain in your joints?

YES NO

18. Do you have many cuts?

YES NO

19. Are you being treated for sinus trouble?

YES NO

20. Are you subject to fainting or dizziness?

YES NO

21. If so, specify medications:

YES NO

22. Are you a Diabetic?

YES NO

23. If so, specify medications:

YES NO

24. Have you ever had a head injury?

YES NO

25. Date:

YES NO

26. Did you ever have a heat stroke or sun stroke?

YES NO

27. Do you have frequent headaches?

YES NO

28. Have you ever been told that you have high blood pressure?

YES NO

29. Have you ever been advised to wear glasses?

YES NO

30. Have you ever had an eye injury?

YES NO

31. Date:

YES NO

32. Do you have any difficulty hearing?

YES NO

33. Have you had any broken bones?

YES NO

34. Date:

YES NO

35. Specify:

YES NO

36. Have you ever been treated for epilepsy or convulsions?

YES NO

37. Have you ever been treated for tuberculosis?

YES NO

38. Have you ever been treated for syphilis?

YES NO

39. Have you ever been treated for gonorrhea?

YES NO

40. Have you ever been treated for leprosy?

YES NO

41. Have you ever been treated for malaria?

YES NO

42. Have you ever been treated for cholera?

YES NO

43. Have you ever been treated for typhoid?

YES NO

44. Have you ever been treated for diphtheria?

YES NO

45. Have you ever been treated for scarlet fever?

YES NO

46. Have you ever been treated for measles?

YES NO

47. Have you ever been treated for mumps?

YES NO

48. Have you ever been treated for whooping cough?

YES NO

49. Have you ever been treated for pertussis?

YES NO

50. Have you ever been treated for tetanus?

YES NO

51. Have you ever been treated for rabies?

YES NO

52. Have you ever been treated for hepatitis?

YES NO

53. Have you ever been treated for AIDS?

YES NO

54. Have you ever been treated for HIV?

YES NO

55. Have you ever been treated for any other disease?

YES NO

56. Specify:

YES NO

The above answers are true to the best of my knowledge and ability. I understand that this information is being used for the purpose of determining my fitness for employment.

Date: 1-11-73

Signature: [Signature]

S-11

241a

Height 64 $\frac{3}{4}$ Weight 147 $\frac{3}{4}$ Blood Pressure 100/60 Pulse 67

CLINICAL EVALUATION		NOTES
1. HEAD AND NECK AND SCALP		
2. SINUSES		
3. MOUTH AND THROAT		
4. EARS GENERAL		
5. DRUMS PERCUSSION		
6. EYES GENERAL		
7. OPHTHALMOSCOPIC		
8. PUPILS (Equality & Reaction)		
9. OPTIC NERVE		
10. LUNGS AND CHEST (Inspection)		
11. HEART (Inspection, sounds)		
12. VASCULAR SYSTEM (Inspection)		
13. ABDOMEN AND GENITALS (Inspection)		
14. ANUS AND RECTUM (Inspection)		
15. ENDOCRINE SYSTEM		
16. GU SYSTEM		
17. UPPER EXTREMITIES		
18. FEET		
19. LOWER EXTREMITIES (Inspection)		
20. SPINE, OTHER MUSCULOSKELETAL		
21. TATTOOS, SCARS, BODY MARKS		
22. SKIN, LYMPHATICS		
23. NEUROLOGIC		
24. PSYCHIATRIC (Specify any personality disorders)		

Remarks: From your history, it is noted that the patient is a
Chronic alcoholic, with a history of
chronic liver disease.

Classification A B C D

Signature: _____

I am fully aware of the results of this physical examination and to the best of my knowledge the results of the examination are correct.

Signature: _____

Signature: _____

Signature: _____

Signature: _____

Signature: _____

Signature: _____

Signature: _____

Signature: _____

242a
GENERAL DYNAMICS
Electric Boat Division

Smoking History
Yes ☒ No ☐
Time 30 Yrs.
Plgs. per day 1
Other _____

CHEST SURVEY

Interval
Asbestos Annual

Survey No.

12568

Survey Date

1/19/73

NAME

Sobolewski, Joseph S.

246

Check No. 12568

FINDINGS

Age 58

IMPRESSION

1 ☐ ANOMALY, RIB OR LUNG

2 ☐ ACQUIRED BONE LESION

3 ☒ PLEURAL SCARRING

4 ☐ PLEURAL EFFUSION

5 ☐ ABNORMAL AORTA

6 ☐ ABNORMAL HEART

7 ☐ ABNORMAL MEDIASTINUM

8 ☐ ABNORMAL DIAPHRAGM

9 ☐ CALCIUM DEPOSIT, LUNGS

10 ☐ CALCIUM DEPOSIT, NODES

11 ☐ QUESTION PULMONARY LESION

12 ☒ PULMONARY LESION

13 ☐ *Probably asbestosis*

14 ☐ *now further study.*

? Tumors 7.7.7.

☐ UNSATISFACTORY EXAMINATION

☐ A—NEGATIVE CHEST

☐ B—ABNORMAL CHEST
No further X-Ray examination recommended

☐ C—ABNORMAL CHEST
Additional X-Ray examination recommended as follows:

Man referred to Family Doctor with Report of Last X-Ray. Said he felt alright and never did go to a Doctor.

EXPLANATION OF CHEST SURVEY REPORTS

"Unsatisfactory examination" indicates that for technical reasons, the film is not of diagnostic quality and patient should be returned to the survey unit for repetition of this study at the earliest possible moment.

"Negative Chest" as used in this department means that x-ray examination has revealed no abnormality of any thoracic structure.

When deviations from normal are recognized they will be indicated under "findings".

The examiner's opinion regarding the probable clinical significance of such findings will be indicated under "impression". When checked under "B" a survey roentgenogram shows some abnormality which does not appear to be of immediate clinical significance.

When the examiner checks his impression under "C" he has expressed the opinion that more elaborate roentgenological examination is highly desirable.

CHEST SURVEY

5-13

1060

PHILIP BARRY WADE, M.D., P.C.
275 MONTAUK AVE.
NEW LONDON, CONNECTICUT 06320
TELEPHONE 443-3295

248a

August 14, 1974

Attorney Matthew Shafner
P.O. Drawer 929
Groton, Connecticut

Re: Joseph Sobolewski

Dear Attorney Shafner:

I have gone over the letter you sent me concerning Mr. Sobolewski. Enclosed is a copy of my evaluation of him at the time I saw him, and a copy of the discharge summary from the hospital.

Mr. Sobolewski did not take our advice and was not treated for his carcinoma. At the present time, we are checking into the fact of whether he had an autopsy following his demise at the hospital. We were able to establish a diagnosis of carcinoma of the lung. The pulmonary changes are suggestive but not diagnostic of additional diagnosis of asbestosis. Without confirmatory findings from an autopsy, to make this evaluation retrospectively from the evidence at hand would be difficult.

If the autopsy report is available and I change my opinion, I will be in contact with you.

Sincerely yours,

Philip B. Wade, M.D. /mdd

Philip B. Wade, M.D.

PBW/mdd
Encs.

c - 6



244a

MOUNT SINAI SCHOOL OF MEDICINE
of The City University of New York
FIFTH AVENUE AND 100TH STREET • NEW YORK, N.Y. 10029



Department of Community Medicine

July 1, 1975

Mr. Matthew Shafner
O'Brien, Shafner, Garvey, Bartinik and Stuart
Bridge Street at Route One
P. O. Drawer 929
Groton, Connecticut 06340

Dear Mr. Shafner:

This is in answer to your letter of May 6, 1975, requesting our opinion on the case of Mr. Sobolewski.

Mr. Sobolewski had started to work as a pipe lagger at the Electric Boat Division of General Dynamics in Groton, Connecticut in November, 1955. His job consisted of insulation with asbestos containing materials; he was also taking off old insulation. Most of his work was done in confined areas and he often worked overtime. Respiratory protection was not available until 1971-1972.

There had been no significant events in Mr. Sobolewski's past medical history, in particular no respiratory diseases.

He was smoking 20 cigarettes per day, for many years.

Starting 1968, the reports on his annual chest x-ray repeatedly indicated "slight degree of pulmonary fibrosis." On some of these reports the condition is described as "probable asbestosis."

In July 1973, Mr. Sobolewski was admitted to the Lawrence and Memorial Hospitals, New London, Connecticut (Unit #372-091) because of swelling of the right axilla. The summary of his hospital admission specifies that "lungs showed diminished breath sounds at the left base and rales at the right base." The chest x-ray showed a left hilar mass with partial collapse of the left upper lobe, and a biopsy of the left axillary lymph nodes showed undifferentiated carcinoma. The discharge diagnosis was "probable carcinoma of left lung with axillary lymph node metastases." He was advised to get radiotherapy and/or chemotherapy. After an attempt of chemotherapy which did not alter the downhill course of his fatal disease, the patient was readmitted to the same hospital on October 7, 1973 and expired on October 10, 1973, at the age of 59 years. The

Mr. Matthew Shafner

-2-

July 1, 1975

discharge diagnosis was "carcinoma of lung with metastases."

No postmortem examination was undertaken.

On the chest x-ray of July 1, 1973, there are small irregular opacities in the lower and middle right lung field, which are consistent with a diagnosis of asbestosis (S ¹/₁, according to the International Classification).

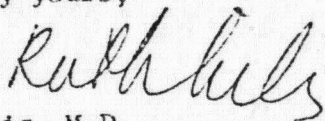
There is also significant thickening of the right parietal and inferior pleura (long interlobar fissure) which is characteristic of asbestos induced pleural changes. The left lung field was not considered, since major changes due to the presence of lung cancer are already apparent. It is worthwhile to point to the fact that, as early as 1968, some of the reports on Mr. Sobolewski's chest x-rays indicated "pulmonary fibrosis, probably asbestosis."

Also, during his first hospital admission in July 1973, on physical examination rales were found over the right lung field, which represents one of the main physical findings in asbestosis.

The development of lung cancer in asbestos exposed workers is much more frequent than in the general population, and the carcinogenic effect of asbestos is, at present, unanimously accepted.

Since in the case of Mr. Sobolewski there had been previous radiological and clinical signs of asbestosis (parenchymal and pleural changes) the relationship of his fatal lung cancer to his occupational asbestos exposure is undeniable.

Sincerely yours,



Ruth Lilis, M.D.

RL:jm

248a

Bureau of Vital Statistics

Marriage License

COPY

Town of New London, Ct.

Every item of information should be carefully supplied.
This is a permanent record.
Write plainly in black unfading ink.

1. Groom's name Joseph Stanley Sobolewski	1. Bride's name Helen Barbara Stefanski
2. Age 28	2. Age 22
3. Color White	3. Color White
4. Occupation Crane operator	4. Occupation Weaver
5. Birthplace { Town Milford State or Country Conn.	5. Birthplace { Town New London State or Country Conn.
6. His residence Uncasville, Conn.	6. Her residence New London, Conn.
7. { Single Widower Single 2d-3d } First Divorced Marriage	7. { Single Widow Single 2d-3d } First Divorced Marriage
8. Name of Father Joseph Sobolewski	8. Name of Father Frank Stefanski
9. Maiden name of Mother Lalana Sobolewski	9. Maiden name of Mother Stella Korbaczka
10. Supervision or control of Guardian or Conservator No	10. Supervision or control of Guardian or Conservator No

We, Joseph Stanley Sobolewski and Helen Barbara Stefanski
the persons named in this Marriage License, do solemnly swear that the statements therein made are true
in accordance with Sec. 1595c, of the Cumulative Supplement to the General Statutes.

Sworn to before me this 20th Dated April 20 Signed Joseph Stanley Sobolewski
day of April 1942 Signed Edward S. Heilan Registrar

Sworn to before me this 20th Dated April 20 Signed Helen Barbara Stefanski
day of April 1942 Signed Edward S. Heilan Registrar

This Certifies, that the above-named parties have complied with the laws of Connecticut relating to
marriage license, and any person authorized to celebrate marriage may join the above-named in marriage
within the town of New London, Ct.

Dated April 25th 1942 Attest: Edward S. Heilan Registrar

Marriage Certificate

I hereby Certify that Mr. Joseph Stanley Sobolewski and
Miss Helen Barbara Stefanski, the above-named parties, were
legally joined in marriage by me at New London, Conn. this 10th
day of May 1942

Signed Rev. Joseph A. Plyn

Address 730 Main St. Official capacity Pastor

Form O-V. S. 14a (1-43) 5M

I Certify that this is a true copy of the certificate received for record
4/29/43 Attest: Edward S. Heilan Registrar

U.S. DEPARTMENT OF LABOR, ²⁴⁷²
BUREAU OF EMPLOYEES' COMPENSATION

Budget Bureau No. 44-R906

LEAVE THIS SPACE BLANK

Office of Deputy Commissioner

Administering Longshoremen's and Harbor Workers' Compensation Act

CASE No.

INSURANCE
CARRIER'S No.

PROOF OF BURIAL AND FUNERAL EXPENSES—BY UNDERTAKER

STATE OF CONNECTICUT

NEW LONDON

COUNTY OF

I, Roger J. Bernier, am a duly licensed undertaker
of New London, Conn. (Print name)
(City or town) at 32 Huntington Street
(Street and number)

On the 10 day of Oct, 1973, I prepared the body

of Joseph S. Sobolewski for burial; I placed a

coffin, containing the said body in a Vault

(Grave, vault, express car)
in Cedar Grove Cemetery cemetery; I shipped said body via

to _____ at _____
(Relative, friend, etc.)

I was directed to conduct such burial by Mrs Helen Sobolewski
(Name)

10 Comstock Avenue Uncasville, Conn.
(Address), who authorized the following itemized bill:

PROFESSIONAL SERVICES & MERCHANDISE AS SELECTED	\$ 2157.93
CEMETERY DISBURSEMENTS	451.00
CASH DISBURSEMENTS	128.18
TOTAL	\$ 2747.11

I was informed said bill would be paid by Mrs Helen Sobolewski
(Name)
10 Comstock Avenue Uncasville, Conn.
(Address) No part of said bill of expenses so
authorized for said burial has been paid, except—
\$ _____ by Mrs Helen Sobolewski 10 Comstock Avenue Uncasville,
(Name) (Address)

(Signed) Roger J. Bernier

A wilfully false certification can be punished by fine and imprisonment. (18 U. S. Code 287 and 1001)

GPO-93-23568

C-9

248a

APS-DI (10-67)

HEALTH INSURANCE CLAIM - GROUP

TO BE COMPLETED BY PATIENT (INSURED)

PART A

Spaced for Typewriter - Marks for Tabulator Appear on this Line

PATIENT'S NAME AND ADDRESS

Joseph S. Sobolewski P.O. Box 37
10 Comstock Ave. Uncasville Ct. 06382

DATE OF BIRTH

April 18, 1914

AUTHORIZATION TO RELEASE INFORMATION: I hereby authorize the undersigned Physician to release any information acquired in the course of my examination or treatment.

SIGNED (PATIENT, OR PARENT IF MINOR)

Joseph S. Sobolewski DATE Aug. 28, 1975

PART B

ATTENDING PHYSICIAN'S STATEMENT

TO THE ATTENDING PHYSICIAN: Your patient has applied for weekly disability income benefits. Your answers to the questions below will assist us in determining if these benefits are payable.

1. DIAGNOSIS AND CONCURRENT CONDITIONS
(If Diagnosis code other than ICDA* used, give name)

Carcinoma of lung

2. IS CONDITION DUE TO INJURY OR SICKNESS ARISING OUT OF PATIENT'S EMPLOYMENT?
Yes ☐ No ☐

PREGNANCY?

Yes ☐ No ☐If yes, approximate date pregnancy commenced.
DATE3. DATES OF SERVICES
(If previous form submitted to this carrier, you need show only dates since last report)

2-3 June 73

8/6+25 (also seen at home)

4. DATE SYMPTOMS FIRST APPEARED OR ACCIDENT HAPPENED.

29 June 73

5. DATE PATIENT FIRST CONSULTED YOU FOR THIS CONDITION.

22 June 77

6. PATIENT EVER HAD SAME OR SIMILAR CONDITION?

Yes ☐ No ☒ If "Yes" when and describe:

7. PATIENT STILL UNDER YOUR CARE FOR THIS CONDITION?

Yes ☒ No ☐8. PATIENT WAS CONTINUOUSLY TOTALLY DISABLED
(UNABLE TO WORK).

FROM 2 Aug 73 THRU uncertain

9. PATIENT WAS PARTIALLY DISABLED.

FROM THRU

10. IF STILL DISABLED, DATE PATIENT SHOULD BE ABLE TO RETURN TO WORK

11. PATIENT WAS HOUSE CONFINED.

FROM THRU

12. DOES PATIENT HAVE OTHER HEALTH COVERAGE?

Yes ☐ No ☐ If "Yes" please identify

DATE

PHYSICIAN'S NAME (Print)

SIGNATURE

DEGREE

TELEPHONE

STREET ADDRESS

CITY OR TOWN

STATE OR PROVIDENCE

ZIP CODE

115 7th Street St. John's Harbor Conn

06380

Approved by Council on Medical Service, AMA 10

*ICDA-International Classification of Diseases

THIS SPACE SHOULD BE USED FOR THE REMARKS OF THE CLAIMANT AND EMPLOYER

Dear Doctor:

All claims are subject to review by our Medical Department. Your cooperation in furnishing all the information called for on this form will be of assistance to us and greatly appreciated.

A. Duncan MacDougall, M.D.
Medical Director
General Dynamics - Electric Corp.
Greenville, S.C.

C-10

THE PRUDENTIAL INSURANCE COMPANY OF AM. CA
a mutual life insurance company

IMANT'S STATEMENT

Insured's Statement		Payroll or Clock No. 12568	Date of Birth April 13 1914 Mo. Day Yr.
Name Insured Mr. Miss	Joseph S. Sobolewski		
Address of Insured P.O. Box 37 10 Street Comstock Ave.	City or Town Ucasville	State Conn.	Zip 06392
Accident occurred, date	A.M. P.M.	Did the sickness or injury arise out of the insured's employment? ☐ Yes ☒ No	If "Yes", give full particulars on reverse side.
Day insured was able to work Date of disability Aug. 8 1973	Date insured was first treated by physician in present disability June 23 1973	If recovery has occurred, give date	1973 A.M. P.M.
(Signed) Aug. 27 1973		Joseph S. Sobolewski	

EMPLOYER'S STATEMENT

EMPLOYER'S STATEMENT										Policy Number		Certificate Number	
Name of Insured		Mr. _____ Mrs. _____ Miss _____						GO - 14500					
Date of Injury		Mo. _____ Day _____ Yr. _____		Date of certificate		Mo. _____ Day _____ Yr. _____		Was certificate in force when disability began?		☐ Yes ☐ No		Occupation	
Insured laid off or lay off contemplated or to beginning of disability?		☐ Yes ☐ No		If "Yes" give date _____, 19____		Did the sickness or injury arise out of the Insured's employment?		☐ Yes ☐ No		If "Yes" state reasons on reverse side why Workman's Compensation is not payable.			
Are there any circumstances which would cause you to question the validity of the claim?		☐ Yes ☐ No		If "Yes" give reasons on reverse side.		Average weekly earnings		Amount of weekly benefit					
Insured was first absent from work in present disability		_____ , 19____ A.M. _____ P.M.		If Insured recovered, what was last date of actual disability?		_____ , 19____ A.M. _____ P.M.		Date work was resumed		_____ , 19____ A.M. _____ P.M.			
USE REVERSE SIDE FOR REMARKS		Return To 		Employer <u>GENERAL DYNAMICS/ELECTRIC BOAT, Groton, Connecticut</u> By <u>Miss Olivia Shepard, Employee Services Coordinator</u> Date _____, 19____ Phone: Area Code 203 - 446-2990									

SPACE BELOW FOR PRUDENTIAL USE

[illegible]

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION

250a

Office of Workmen's Compensation Programs
147 Milk St., Boston, MA 02109



October 16, 1974

Superior, U.C. Claims
General Insurance Corporation
Atlantic Point Road
Green, CT 06030

File No: 1-1000
Injured Employee: Samuel S. Schenck
Date of Injury: 10/10/73
Employer: General Insurance Corp.

Gentlemen:

Please submit the reports or information checked below:

- ☐ LS-202, Employer's First Report to Deputy Commissioner of Accident or Occupational Disease.
- ☐ LS-204, Attending Physician's Report.
- ☐ LS-206, Payment of Compensation Without Award.
- ☐ LS-207, Notice to Deputy Commissioner that Claim will be Controverted.
- ☐ LS-208, Compensation Payment Stopped or Suspended.
- ☐ LS-210, Employer's Supplementary Report of Accident or Occupational Disease.
- ☐ Supplemental or Final Medical Report.
- ☐ Narrative Medical Report giving Percentage of Permanent Partial Disability.
- ☐ Statement of wage earnings of the employee for one year prior to the date of injury, or if not available, that of a similar worker.
- ☐ _____
- _____
- _____

Sincerely,

Assistant Deputy Commissioner

cc: Murphy & Lyons; Robert T. Coleman, Inc.; Attorney Patrick J. Collins
CCT:ad:ldg

Include your address, ZIP code, and file number on all correspondence

Form LS-216
Rev. Aug. 1972
GPO 556-600

C 11-1

251a

DEPT. OF LABOR
BUREAU OF EMPLOYEES' COMPENSATION
EMPLOYEE'S CLAIM FOR COMPENSATION1. DEC CASE NUMBER
2. CARRIER'S NUMBER

SEE INSTRUCTIONS ON REVERSE

NAME OF INJURED EMPLOYEE (Type or print)		FIRST NAME	MIDDLE INITIAL	LAST NAME		4. DATE OF INJURY	
		JOSEPH		SOBOLEWSKI		10/10/73	
EMPLOYEE'S ADDRESS (Number, street, city, State, zip code)						☐ SINGLE ☒ MARRIED	
10 Comstock Avenue Uncasville, Conn. 06382							
5. SEX ☒ MALE ☐ FEMALE		8. AGE OR DATE OF BIRTH 4/18/14		9. SOCIAL SECURITY NUMBER 045 09 7446		10. DID INJURY CAUSE LOSS OF TIME BEYOND DAY OR SHIFT OF ACCIDENT? ☐ YES ☐ NO	
11. ON DATE OF INJURY GIVE		9. HOUR BEGAN WORK		10. HOUR OF ACCIDENT		12. DATE AND HOUR PAY STOPPED	
13. DATE AND HOUR YOU RETURNED TO WORK		14. OCCUPATION (Job title, longshoreman, welder, etc.) Pipe Coverer					
15. WAGES OR EARNINGS (Include overtime allowances, etc.)		9. WEEKLY		10. TOTAL EARNINGS OUR PREVIOUS YEAR		17. INJURED WHILE DOING SUCH WORK? ☐ YES ☐ NO (If "No," explain in item 24)	
18. HOW MANY YEARS HAVE YOU WORKED FOR THIS EMPLOYER?		19. NUMBER OF DAYS USUALLY WORKED PER WEEK		20. NAME OF FOREMAN OR SUPERVISOR AT TIME OF ACCIDENT			
21. EARLIEST DATE FOREMAN OR EMPLOYER KNEW OF ACCIDENT		22. WERE YOU EMPLOYED ELSEWHERE DURING THE WEEK YOU WERE INJURED? ☐ YES ☐ NO (If "Yes," on reverse state where and when)					
23. EXACT PLACE WHERE ACCIDENT OCCURRED (Street address, city, town. Name of vessel, pier, terminal, etc.)							

24. DESCRIBE IN FULL HOW THE ACCIDENT OCCURRED (Relate the events which resulted in the injury or occupational disease. Tell what the injured was doing at the time of the accident. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident. If more space is needed, continue on other side.)

Death: Cause Asbestosis

25. NATURE OF INJURY (Name part of body affected--fractured left leg, bruised right thumb, etc. If there was a loss of a part of the body, describe.)

Death: Cause Asbestosis

26. HAVE YOU RECEIVED MEDICAL ATTENTION FOR THIS INJURY? ☐ YES ☐ NO (If "YES" give name and address of doctor, clinic, hospital, etc.)

27. WAS SUCH TREATMENT PROVIDED BY EMPLOYER? ☐ YES ☐ NO		28. ARE YOU STILL DISABLED ON ACCOUNT OF THIS INJURY? ☐ YES ☐ NO		29. HAVE YOU DONE ANY WORK DURING THE PERIOD OF DISABILITY? ☐ YES ☐ NO	
30. HAVE YOU RECEIVED ANY WAGES SINCE BECOMING DISABLED? ☐ YES ☐ NO (If "Yes," give dates on back)		31. HAS INJURY RESULTED IN PERMANENT DISABILITY OR AMPUTATION? ☐ YES ☐ NO (If "Yes," describe on reverse)			
32. NAME OF EMPLOYER (Individual or firm name) General Dynamics/Electric Boat Division		33. NATURE OF EMPLOYER'S BUSINESS Shipbuilder			
34. ADDRESS OF EMPLOYER (Number, street, city, State, zip code) Eastern Point Road, Groton, Conn. 06340				35. IF ACCIDENT OCCURRED OUTSIDE THE U.S., STATE WHETHER YOU ARE U.S. CITIZEN ☐ YES ☐ NO	
36. SIGNATURE OF PERSON CLAIMING COMPENSATION <i>John B. Sobolewski - Administrator</i>				37. DATE OF THIS REPORT 30 Sept. 1974	

252a

1 ONWPC OCT 4 1974

c "

U.S. DEPARTMENT OF LABOR		BUREAU OF EMPLOYEES COMPENSATION		1-15584
EMPLOYER'S FIRST REPORT OF ACCIDENT OR OCCUPATIONAL ILLNESS				1. BEE CASE NUMBER
SEE INSTRUCTIONS ON REVERSE				2. CARRIER'S NUMBER
LEAVE ITEMS 1 AND 2 BLANK				131-162-4924A
3. NAME OF EMPLOYEE	FIRST NAME	MIDDLE INITIAL	LAST NAME	4. DATE OF INJURY (Month, day, year)
Joseph S. Sobolewski				Unknown
5. EMPLOYEE'S ADDRESS (Number, street, city, state, zip code)				6. ACCIDENT IS BEING REPORTED UNDER THE FOLLOWING ACT (Check one, see instructions on reverse)
10 Comstock Avenue, Uncasville, Conn. 06382				☒ LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT
7. SEX	8. A. DATE OF BIRTH	9. SOCIAL SECURITY NUMBER		☐ DEFENSE BASE ACT
☒ MALE ☐ FEMALE	4-18-14	045 09 7446		☐ NONAPPROPRIATED FUND INSTRUMENTALITIES ACT
10. ON DAY OF INJURY	11. HOUR REL. AN WORK	12. HOUR OF ACCIDENT	13. DID EMPLOYEE STOP WORK IMMEDIATELY?	
☐ YES ☐ NO			☐ YES ☐ NO	
14. DATE AND HOUR EMPLOYEE RETURNED TO WORK		15. OCCUPATION (Job title, longest year worked in)		16. NUMBER OF YEARS IN THIS OCCUPATION
		Working Leader		8 1/2
17. INJURED WHILE DOING SUCH WORK?		18. YEARS IN YOUR EMPLOY		19. NUMBER OF DAYS USUALLY WORKED PER WEEK
☐ YES ☐ NO (If no, explain in item 25)		8 1/2		5
21. WAGES OR EARNINGS (Include overtime allowances, etc.)		22. EXACT PLACE WHERE ACCIDENT OCCURRED (See instructions on reverse)		20. IF INJURED ON A VESSEL, WHAT WAS BEING DONE TO, ON, OR FROM THE VESSEL? (Check one)
3.44		General Dynamics/Electric Boat Division, Groton, Conn.		☐ LOADING OR UNLOADING
23. NAME OF FOREMAN OR SUPERVISOR AT TIME OF ACCIDENT		24. EARLIEST DATE FOREMAN OR EMPLOYER KNEW OF ACCIDENT		☐ REPAIR OR CONVERSION
B. Guillotte		8-7-73		☐ NEW SHIP CONSTRUCTION
25. DESCRIBE IN FULL HOW THE ACCIDENT OCCURRED. Report the events which resulted in the injury or occupational disease. Tell what the injured was doing at the time of the accident, tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident.				☐ SHIPBREAKING (Demolition)
Widow claims asbestosis resulting in death.				☐ DREDGING
26. NATURE OF INJURY (Name part of body affected, fractured leg, bruised right thumb, etc. If there was a loss of part of the body describe)				☐ MARINE CONSTRUCTION
Carcinoma of lung				☐ MISCELLANEOUS SERVICES
27. IF YOU PROVIDED OR AUTHORIZED MEDICAL ATTENTION, GIVE DATE. IF NOT, EXPLAIN WHY.				28. DATE INSURANCE CARRIER NOTIFIED
29. NAME OF PHYSICIAN		30. ADDRESS (Number, street, city, State, zip code)		
31. NAME OF HOSPITAL		32. ADDRESS (Number, street, city, State, zip code)		
33. NAME OF HOSPITAL & STREET		34. ADDRESS (Number, street, city, State, zip code)		
Self Insured c/o Robert f. Coleman		1289 Chapel Street, New Haven, Ct.		
35. NAME OF EMPLOYER (If individual or firm name)		36. ADDRESS OF REPORTING OFFICE (Number, street, city, State, zip code)		
Electric Boat Division		Eastern Point Rd., Groton, Ct. 06340		
37. NATURE OF EMPLOYER'S BUSINESS		38. SIGNATURE OF PERSON AUTHORIZED TO SIGN FOR EMPLOYER		
Submarine construction & repair				
39. OFFICIAL TITLE OF PERSON SIGNING THIS REPORT		40. DATE OF THIS REPORT		
		9-8-75		

246=12568

254a

CONFIDENTIAL

e 11-5

U.S. DEPARTMENT OF LABOR
Workplace STANDARDS ADMINISTRATION

255a

Bureau of Employees' Compensation

DOSION 111 111100

February 7, 1975

File No: 1-15584

Re: Joseph Sobolewski, Deceased

Inj: 10/10/73



Supervisor of Claims
General Dynamics, Corp.
Eastern Point Rd.
Groton, Conn.

This letter requests your assistance in submitting a form BEC-202, "Employer's First Report of Accident or Occupational Illness" for the above claimant. ~~NO COPY OF YOUR REPORT IS REQUIRED TO BE SUBMITTED.~~

You are reminded that Section 30(a) of the Longshoremen's and Harbor Workers' Compensation Act, which includes the District of Columbia, requires the employer to "file a report with this office within 10 days from the date of injury or death or the date he first has knowledge of a disease or infection in respect of such injury."

Section 30(e) of the same Act states that "any employer who fails or refuses to send any report required of him shall be subject to a civil penalty not to exceed \$500 for each such failure or refusal."

Kindly send us a copy of the above mentioned form or explain any further delay. We will appreciate you giving this matter your immediate attention.

Sincerely,

William R. White

Claims Examiner
OWCP:WRW:gm

Claim was filed for above man with
Insurance Company of North America,
New Haven, Conn. - their file
928 C 260328-2

J. McKenna

Include your address, ZIP code, and file number on all correspondence

Ltr. BEC-512
Rev. Oct. 1970

c-11-6

258a

January 1, 1973

1-1-73

Research Center, University of California

San Diego, California

San Diego, California
University of California
San Diego, California
San Diego, California

San Diego, California

San Diego, California
San Diego, California

San Diego, California

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257a

U. S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
OFFICE OF WORKMEN'S COMPENSATION PROGRAMS

Case No.
Insurance **1-15504**
Carrier's No.

February 7, 1975

OFFICE OF DEPUTY COMMISSIONER

Administering Longshoremen's and Harbor Workers' Compensation Act, as extended

Robert F. Coleman, Inc. 1289 Chapel St., New Haven, Conn.

NOTICE TO EMPLOYER AND INSURANCE CARRIER THAT CLAIM HAS BEEN FILED

Gentlemen:

Enclosed is a copy of a claim for compensation which has been filed by
Joseph S. Sobolewski (deceased) VS: General Dynamics, Corp. under the
Act.
Inj: 10/10/73

You should proceed to pay compensation promptly when due as provided by Section 14 of the Longshoremen's and Harbor Workers' Compensation Act and to furnish medical treatment in accordance with Section 7(a) and (b) thereof, unless liability to pay compensation is controverted.

Section 14(d) provides that if the employer controverts the right to compensation he shall file with the deputy commissioner, on or before the 14th day after he has knowledge of the alleged injury or death, a notice stating that the right to compensation is controverted, the name of the claimant, the name of the employer, the date of the alleged injury or death, and the grounds upon which the right to compensation is controverted.

Under the regulations of this Office where claim is filed the employer or insurance carrier is required to file answer thereto within ten days from the date notice is received that claim has been filed.

Forms of notice of controversy and answer are enclosed for use in the event the right to compensation is controverted and the claim is to be opposed.

The original notice and answer should be filed with the deputy commissioner at the above office and copy thereof served upon the claimant either personally or by mailing it to the address given in the claim if you deny liability. Otherwise you should proceed to pay compensation immediately as provided by the said Act.

Sincerely,

William R. White
Deputy Commissioner
ONCP:WRW:gm

~~XXXXXXXXXXXXXXXXXXXX~~

Enclosure Forms 262, 265, copy birth cert. death cert. marriage cert. of claimant.
and Attorney's Letter

CC: Mrs. Joseph Sobolewski
10 Comstock Ave.
Uncasville, Conn. 06382

Ltr. IS-215a
Rev. June 1973

C-11-8

258a

10/1973

1 CWEP MAR 30 1975

10/1973

e-11

ELLIOT L. SAGALL, M. D.
454 BROOKLINE AVENUE
BOSTON, MASSACHUSETTS 02215
REGENT 4-1234

August 22, 1975

Norman P. Beane, Jr., Esquire
160 State Street
Boston, Massachusetts 02109

RE: Joseph Sobolewski (Dec'd)
vs. General Dynamics Corp.
113 162 (Electric Boat Co.)

Dear Mr. Beane:

Subsequent to our office conference of August 20, 1975, I have reviewed the various material submitted concerning the late Joseph Sobolewski. The following is in answer to the various questions which you have raised.

SUMMARY OF MEDICAL DATA: The records of physical examination performed at the Electric Boat Division of General Dynamics Corporation and X-ray reports submitted indicated that in February, 1972, this man's chest X-ray was found to be abnormal with question raised of a pneumonic process. A chest survey of January 9, 1973, showed findings interpreted as probably due to asbestos.

The records of the Lawrence and Memorial Hospitals of New London, Connecticut, for an admission of July 1, 1973, stated that this man was complaining of swelling of the right axilla. He had in general been well and unwillingly he was seeking medical attention. About six months previously a routine chest X-ray showed abnormal findings, and it was suggested that he consult his physician. However, he had no symptoms at the time and did not feel it was necessary to see a physician until about one week before admission at which time his weight had fallen from 162 to 159 pounds, and he had noted a small asymptomatic swelling of the right groin. He was a heavy smoker, but had no chronic cough nor bloody sputum. The examination revealed a 3 x 3 cm. large axillary lymph node with several smaller left axillary nodes and shotty cervical and inguinal nodes. The liver was at the costal margin plus 1. Bronchial washings were positive for malignancy with poorly differentiated carcinoma. Sputum cytology showed metaplasia on three occasions. Chest X-ray on admission showed a left hilar mass with partial collapse of the left upper lobe. On July 3rd the lymph nodes in the left axillary region were excised. Frozen section revealed undifferentiated carcinoma, thought probably to be primary in the lung. Bronchoscopy showed an obstruction of the left upper lobe bronchus, but biopsy showed no evidence of definite carcinoma. He remained afebrile and asymptomatic and was discharged to have further palliation with radiation and/or chemotherapy.

The Death Certificate listed the date of death as October 10, 1973, with age of 57 years and cause of death listed as "carcinoma of lung with metastases of one year's duration."

The information submitted further indicated that this man had started to work as a pipe fitter at the Electric Boat Division of General Dynamics in Groton, Connecticut, in 1955. His job

Claimant's Exhibit
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August 22, 1975
RE: Joseph Sobolewski (Dec'd)
vs. General Dynamics Corp.

260a

consisted of applying insulation with asbestos containing material as well as taking off old insulation. Most of his work was done in confined areas. He also often worked overtime. There was a further history of smoking 20 cigarettes per day for many years.

The report of Dr. Ruth Lillis of July 1, 1975, further indicated that this man subsequent to discharge from the Lawrence and Memorial Hospitals in July, 1973, had an attempt at chemotherapy which did not alter the downhill course of his fatal disease, and he was readmitted to the same hospital on October 7th and expired there on October 10, 1973. No Post-mortem examination was performed. The information contained in Dr. Lillis' letter further stated that chest X-rays starting in 1968 reported "slight degree of pulmonary fibrosis."

OPINION: The medical records reviewed, in my opinion, establish the probability of underlying bronchogenic carcinoma of the lung with metastases to left axillary lymph nodes. The records, however, although suggesting by reason of findings of pulmonary fibrosis by X-ray and occupational history of exposure to asbestos, the possibility of asbestosis did not definitively establish that diagnosis, and in absence of autopsy findings or of more pathognomonic X-ray findings or of lung biopsy demonstrating asbestos bodies, the diagnosis of asbestosis and, therefore, the causal connection between this man's lung cancer and death therefrom and his occupational employment remains questionable and unestablished.

Based on the medical records reviewed, particularly the findings on admission to the Lawrence and Memorial Hospitals of July 1, 1973, it is my opinion that this man's lung cancer must have been present for many months to have produced the findings demonstrated on chest X-ray and to have metastasized to the left axillary nodes. It is my opinion, based upon these findings, that the lung cancer had been present for at least nine to 12 months prior to the admission date of July 1, 1973.

Assuming a causal connection between this man's lung cancer and pulmonary asbestosis stemming from his employment due to the recognized increased risk of bronchogenic carcinoma in asbestosis workers who also are heavy cigarette smokers, it is my opinion that the recognized long incubation period between such exposure and the development of malignancy would point to the asbestos inhaled during the first years of his employment as a pipe fitter in November, 1955 or previously if he had such prior exposure to asbestos as the causative element in contributing to the development of lung cancer and not the asbestos inhaled during the last several months of his employment and alleged exposure.

Sincerely yours,

Elliot L. Sagall, M.D.

ELS:q
Enc.

2-5

HOSPITAL ADMISSION FORM TO BE PRESENTED TO THE HOSPITAL IN DUPLICATE

LAWRENCE & MEMORIAL HOSPITAL, this certifies that **JOSEPH S. SOBOLEWSKI** is eligible for the following health **SELF** under the

benefits (in behalf of his dependent **261a** (Name) (Relationship))

General Dynamics Corporation Health Expense Benefits Plan

NEEDS FOR MATERNITY AND NON-MATERNITY CASES

Hospital Room and Board (including general nursing services).

Actual hospital charges up to 365 times the daily hospital benefit of \$65 plus 80% of the excess but not to exceed the hospital's standard semi-private room rate.

Other Hospital Charges

Actual hospital charges for care and treatment (excluding charges for nurses and physicians' services and take home drugs) - \$800 plus 80% of covered expenses in excess of \$800.

The maximum initial certification of benefits is \$2500. If the expenses are expected to exceed \$2500, please contact General Dynamics for additional certification of benefits.

NOTE: Maternity Benefits are only available for employees' wives and female employees.

PLAN PROVIDES FOR COORDINATION OF BENEFITS ☒ Yes ☐ No

THE MINIMUM HOUR HOSPITALIZATION REQUIREMENT will be met if the patient is an in-patient and a charge is made for room and board except that there are no such requirements for the initial confinement due to a surgical operation or for emergency care rendered within 72 hours following an accident or the onset of serious and sudden illness.

EMPLOYER ADDRESS PHONE
GENERAL DYNAMICS CORPORATION Groton, Connecticut 06340 Area Code 203
ELECTRIC BOAT DIVISION 446-2990

Y (NAME AND TITLE) ABOVE CERTIFICATION VALID FOR ONLY SEVEN DAYS
Employee Services Department FROM THIS DATE (Exception - Maternity Cases)

HOSPITAL COMPLETE AND FURNISH COPY TO: (NAME AND ADDRESS)
EMPLOYEE SERVICES DEPT.
GENERAL DYNAMICS CORP.
ELECTRIC BOAT DIVISION Eastern Point Rd., Groton, Connecticut 06340

HEREBY AUTHORIZE PAYMENT directly to the below named hospital of the Health Expense benefits herein specified and otherwise payable to me but not to exceed the balance due of the hospital's regular charges for this period of hospitalization. I understand I am financially responsible to the hospital for charges not covered by this authorization.

SIGNED (employee) **Joseph S. Sobolewski HBS**
DEPT. NO. **246** BADGE NO. **12568** DATE

HEREBY AUTHORIZE RELEASE OF INFORMATION, requested on this form, by the below named hospital.

SIGNED (Patient, or Parent if Minor) **Joseph S. Sobolewski HBS**
DATE

NAME OF PATIENT AGE DATE ADMITTED TIME ADMITTED DATE DISCHARGED TIME DISCHARGED
JOSEPH S. SOBOLEWSKI **59** **OCT/7/73** **8:50PM** **10-10-73** **Expired** **AM** **PM**

DIAGNOSIS FROM RECORDS (IF INJURY, GIVE DATE AND PLACE OF ACCIDENT)
Cancer of lung with metastasis

IS CONDITION DUE TO INJURY OR SICKNESS ARISING OUT OF PATIENT'S EMPLOYMENT? ☐ Yes ☐ No

OPERATIONS OR OBSTETRICAL PROCEDURES PERFORMED (NATURE AND DATE)

OTHER HOSPITAL COVERAGE: ☐ Yes ☐ No (If "Yes" Name of Carrier) IF PATIENT HAD OTHER THAN SEMI-PRIVATE ROOM, INDICATE MOST COMMON SEMI-PRIVATE DAILY RATE \$.....

HOSPITAL CHARGES: (COMPLETE THIS SECTION OR ATTACH COPY OF BILL WITH A DETAILED BREAKDOWN OF CHARGES)

ROOM AND BOARD		OTHER CHARGES		TOTAL CHARGES	
Ward	Days at \$ Total			\$	
Semi-private	Days at \$ Total			\$	
Private	Days at \$ Total			\$	
Intensive Care Unit	Days at \$ Total			\$	
Extended Care Facility	Days at \$ Total			\$	
Operating or Delivery Room				\$	
Anesthesia				\$	
Laboratory				\$	
Medical and Surgical Supplies				\$	
Pharmacy (Except Take-Home Drugs)				\$	
Inhalation Therapy				\$	
Intravenous Solutions				\$	
TOTAL				\$	

THIS FORM APPROVED BY THE HEALTH INSURANCE COUNCIL AND ACCEPTED FOR USE BY HOSPITALS BY THE AMERICAN HOSPITAL ASSOCIATION:

HOSPITAL **LAWRENCE & MEMORIAL HOSPITAL**

ADDRESS **MONTAUK AVE. NEW LONDON, CONN 06329**

TAKEN FROM RECORDS **10-11-73** SIGNED BY **Mines**

HEALTH INSURANCE CLAIM - GROUP

262a

PART A

TO BE COMPLETED BY PATIENT (INSURED)

AP9-D1

Spaced for Typewriter - Marks for Tabulator Appear on this Line

PATIENT'S NAME AND ADDRESS

Joseph S. Sobolewski P.O. Box 31

DATE OF BIRTH

April 18, 1914

AUTHORIZATION TO RELEASE INFORMATION: I hereby authorize the undersigned Physician to release any information acquired in the course of my examination or treatment.

SIGNED (PATIENT, OR PARENT IF MINOR)

Joseph S. Sobolewski Aug. 28, 1973

PART B

ATTENDING PHYSICIAN'S STATEMENT

TO THE ATTENDING PHYSICIAN: Your patient has applied for weekly disability income benefits. Your answers to the questions below will assist us in determining if these benefits are payable.

1. DIAGNOSIS AND CONCURRENT CONDITIONS
(If Diagnosis code other than ICDA* used, give name)

Congestive heart failure

2. IS CONDITION DUE TO INJURY OR SICKNESS ARISING OUT OF PATIENT'S EMPLOYMENT?

Yes ☐ No ☐

PREGNANCY?

Yes ☐ No ☐

If yes, approximate pregnancy commence DATE

3. DATES OF SERVICES
(If previous form submitted to this carrier, you need show only dates since last report)

7-7 June 73

8/6 + 25 also seen at home

4. DATE SYMPTOMS FIRST APPEARED OR ACCIDENT HAPPENED.

29 June 73

5. DATE PATIENT FIRST CONSULTED YOU FOR THIS CONDITION.

29 June 73

6. PATIENT EVER HAD SAME OR SIMILAR CONDITION?

Yes ☐ No ☒ If "Yes" when and describe.

7. PATIENT STILL UNDER YOUR CARE FOR THIS CONDITION?

Yes ☒ No ☐

8. PATIENT WAS CONTINUOUSLY TOTALLY DISABLED (UNABLE TO WORK).

FROM 2 Aug 73 THRU uncertain

9. PATIENT WAS PARTIALLY DISABLED.

FROM THRU

10. IF STILL DISABLED, DATE PATIENT SHOULD BE ABLE TO RETURN TO WORK

11. PATIENT WAS HOUSE CONFINED.

FROM THRU

12. DOES PATIENT HAVE OTHER HEALTH COVERAGE?

Yes ☐ No ☐ If "Yes" please identify



DATE

8/22/73

PHYSICIAN'S NAME (Print)

Carl H. W. [illegible]

SIGNATURE

Carl H. W. [illegible]

DEGREE

TELEPHONE

STREET ADDRESS

115 Huntington St New London Conn

CITY OR TOWN

STATE OR PROVIDENCE

ZIP CODE

ICDA-International Classification of Diseases

Approved by Council on Medical Service, AMA 10-67

THIS SPACE SHOULD BE USED FOR THE REMARKS OF THE CLAIMANT AND EMPLOYER

Doctor:

Claims are subject to review by our Medical Department. Your cooperation in furnishing all the information called for on this form will be of assistance to us and greatly appreciated.

A. Duncan McDougall, M.D.
Medical Director
General Dynamics Electric Boat
Groton, Connecticut

LAST Sobolewski FIRST Joseph MIDDLE Stanley 12568 S.S. # 045-09-7446
 68 Cnstock Ave. CITY Uncasville STATE Conn. TEL. #
 CITY Uncasville 06382 STATE Conn. TEL. #
 CITY STATE TEL. #
 CITY STATE TEL. #
 CITY STATE TEL. #
 CITY STATE TEL. #
 SEX: ☒ MALE ☐ FEMALE MINORITY: ☐ NEGRO ☐ ORIENTAL ☐ AMER. IND. ☐ SPAN. AMER.
☐ SINGLE ☒ MARRIED ☐ DIVORCED ☐ SEPARATED ☐ WIDOW (ER)
 DEPENDENTS: SPOUSE CHILDREN PARENTS OTHERS TOTAL
 OF BIRTH: 4-18-14 PLACE OF BIRTH: Wilkes Barre, Pa.
 MARY STATUS: VETERAN ☐ YES ☒ NO SUBMARINE SERVICE ☐ YES ☐ NO U.S. RESERVE ORGANIZATION
 BRANCH OF SERVICE DATE ENTERED DATE DISCHARGE RANK HELD AT DISCHARGE
 WAIVER DATE
 PREVIOUS EMPLOYER Unemployed
 HIGHEST EDUCATION SCHOOL Coughlin High School, Wilkes Barre, Pa. DEGREE(S) 1 yr.
 NAME OF EMERGENCY NOTIFY: Helen Sobolewski ADDRESS Same TEL. #
 ADDRESS TEL. #

ADDRESS _____ CITY _____ STATE _____ TEL. # _____
 ADDRESS _____ CITY _____ STATE _____ TEL. # _____
 ADDRESS _____ CITY _____ STATE _____ TEL. # _____
 PERSONAL: ☐ MALE ☐ FEMALE MINORITY: ☐ NEGRO ☐ ORIENTAL ☐ AMER. IND. ☐ SPAN. AMER.
☐ SINGLE ☐ MARRIED ☐ DIVORCED ☐ SEPARATED ☐ WIDOW (ER)
 NO. OF DEPENDENTS: _____ SPOUSE _____ CHILDREN _____ PARENTS _____ OTHERS _____ TOTAL _____
 DATE OF BIRTH: _____ PLACE OF BIRTH: _____
 MILITARY STATUS: VETERAN ☐ YES ☐ NO SUBMARINE SERVICE ☐ YES ☐ NO U.S. RESERVE ORGANIZATION _____
 BRANCH OF SERVICE _____ DATE ENTERED _____ DATE DISCHARGE _____ RANK HELD AT DISCHARGE _____

PHYSICAL DEFECTS _____

WAIVER DATE _____

PREVIOUS EMPLOYER _____

HIGHEST EDUCATION SCHOOL _____

DEGREE(S) _____

CASE OF EMERGENCY NOTIFY: _____

DATE	ADDRESS	POSITION	RATE	EMPLOYER	REMARKS
17-41	323 534	Crane Operator 2C	.78	Menzie	Re-rate
24-41	" "	" " 3C	.71	"	
23-41	" "	" " "	.80	"	Prom
1-9-41	" "	" " 2C	.87	"	P. on
11-42	" "	" " 1C	.95	"	
29-42	" "	" " "	1.12	"	Union Agree.
7-44	1-14-46	" " "	1.20	"	Term.
28-55	246 046	Pipecoverer Learner Step 2	1.42	McBreen	Prom.
9-56	" "	" " Step 3	1.49	"	Prom.
5-56	" "	" " Step 5	1.73	"	Prom.
14-56	" "	" " Step 6	1.87	"	Plt. Inc.
1-56	" "	" " " "	1.97	"	Prom.
20-56	" "	Pipecoverer 3C	2.12	"	Trans.
2-10-56	252 142	Carpenter 3C	2.12	Wallin	Trans.
11-57	246 12568	Pipecoverer 3C	2.12	McBreen	Prom.
15-57	" "	" " 2C	2.25	"	Plt. Inc.
1-57	" "	" " "	2.32	"	Prom.
14-58	" "	" " 1C	2.51	"	Plt. Inc.
1-58	" "	" " "	2.71	"	Plt. Inc.
1-59	" "	" " "	2.81	"	Prom.
10-60	" "	Specialist	2.98	"	Plt. Eng.
1-60	" "	" " "	3.03	"	Reclass.
1-60	" "	Working Leader	3.13	"	Reclass.
21-60	" "	Specialist	3.05	"	Reclass.
31-60	" "	" " 1C	2.88	"	Plt. Inc.
1-61	" "	" " "	2.96	"	Plt. Inc.
7-1-62	" "	" " "	3.03	"	Reclass.
31-63	" "	Working Leader	3.28	"	Plt. Inc.
1-63	" "	" " "	3.35	"	Plt. Inc.
1-64	" "	" " "	3.44	"	Reclass.

PERSONAL INFORMATION _____

DETAILED SEVERANCE RECORD

DATE OF SEVERANCE	LAST DAY WORKED	REASON FOR SEVERANCE	ELIG. FOR RETIRE	LENGTH OF SERVICE					
				TOTAL			ACCREDITED		
				YRS.	MO.	DAYS	YRS.	MO.	DAYS
18-46	1-11-46	Term. Chosen by Plant Grading System to be terminated for lack of work.							
0-11-73	8-7-73	Deceased.							

EFFECTIVE DATE		DEPT. NO.	BADGE NO.	JOB CLASSIFICATION	RATE	SUPERVISOR	REASON FOR CHANGE	UNION JURIS.
FROM	TO							
64		246	12568	Pipecoverer 1C	3.19	McBreen	Prom-R	
65		"	"	Leading Man	Annual	"	Prom-H	
66		"	"	" "	Annual	"	Reclass.	
66		"	"	Pipecoverer 1C	3.27	"	Plt. Inc.	
7		"	"	" "	3.34	"	Plt. Inc.	
8		"	"	" "	3.60	"	Plt. Inc.	
9		"	"	" "	3.71	"	Plt. Inc.	
0		"	"	" "	3.84	Guillotte	Plt. Inc.	
1		"	"	" "	4.03	"	Prom.	
71		"	"	" Working Leader	4.28	"	Plt. Inc.	
2		"	"	" " "	4.55	"	Plt. Inc.	
3	10-11-73	"	"	" " "	4.79	"	Deceased	
60		"	"	Specialist	2.98	"	Plt. Eng.	
0		"	"	" "	3.05	"	Reclass.	
0		"	"	" Working Leader	3.23	"	Reclass.	
60		"	"	" Specialist	3.05	"	Reclass.	
60		"	"	" 1C	2.88	"	Plt. Inc.	
1		"	"	" "	2.66	"	Plt. Inc.	
62		"	"	" "	3.03	"	Reclass.	
63		"	"	" Working Leader	3.23	"	Plt. Inc.	
3		"	"	" " "	3.35	"	Plt. Inc.	
4		"	"	" " "	3.54	"	Reclass.	

ADDITIONAL INFORMATION

[illegible]

DEGREE CODE _____
SALARY CODE _____
EXP. CREDIT _____

43
50

265a

May 18,
~~1972~~ 1972

Told to see Family Doctor
by Dr. Mac Dougall again
Jan 19, 1973

TO WHOM IT MAY CONCERN:

Re: Sobolewski, Joseph S.
246-12568

During the course of a routine interval physical examination a chest x-ray was interpreted by Dr. F. J. Fagan and an abnormal condition was found. It is required that further study be carried out by the person's own physician. A report of the findings is to be submitted to the Electric Boat Division.

Please send report of further study within thirty days to Harold Hansen, X-ray Analyst, c/o Yard Hospital. Thank you.

Very truly yours,

Stanley E. Kilty, M. D.

Abnormality: See attached report

Recommendations: See attached report

Any costs incurred as a result of this study will not be the responsibility of Electric Boat Division of General Dynamics.

ENCLOSURE
(2)

267a

GENERAL DYNAMICS
Electric Boat Division

Smoking History
Yes ☒ No ☐
Time 30 Yrs.
Pkg. per day 1
Other

CHEST SURVEY

Interval
Asbestos Annual

Survey No. 12568

Survey Date 1/19/73

NAME Polowski, Joseph S.
Check No. 246 12568
Age 58
FINDINGS

IMPRESSION

- | | |
|--|--|
| ☐ 1 ANOMALY, RIB OR LUNG | ☐ 9 CALCIUM DEPOSIT, LUNGS |
| ☐ 2 ACQUIRED BONE LESION | ☐ 10 CALCIUM DEPOSIT, NODES |
| ☒ 3 PLEURAL SCARRING | ☐ 11 QUESTION PULMONARY LESION |
| ☐ 4 PLEURAL EFFUSION | ☒ 12 PULMONARY LESIONS |
| ☐ 5 ABNORMAL AORTA | ☐ 13 <i>Probably asbestos</i> |
| ☐ 6 ABNORMAL HEART | ☐ 14 <i>now further study.</i> |
| ☐ 7 ABNORMAL MEDIASTINUM | |
| ☐ 8 ABNORMAL DIAPHRAGM | <i>? Tubercular T.T.</i> |

- ☐ UNSATISFACTORY EXAMINATION
- ☐ A—NEGATIVE CHEST
- ☐ B—ABNORMAL CHEST
No further X-Ray examination recommended
- ☐ C—ABNORMAL CHEST
Additional X-Ray examination recommended as follows:

man referred to family doctor with report of last X-Rays. said he felt alright and never did go to a doctor.

EXPLANATION OF CHEST SURVEY REPORTS

"Unsatisfactory examination" indicates that for technical reasons, the film is not of diagnostic quality and patient should be returned to the survey unit for repetition of this study at the earliest possible moment.

"Negative Chest" as used in this department means that x-ray examination has revealed no abnormality of any thoracic structure.

When deviations from normal are recognized they will be indicated under "findings".

The examiner's opinion regarding the probable clinical significance of such findings will be indicated under "impression". When checked under "B" a survey roentgenogram shows some abnormality which does not appear to be of immediate clinical significance.

When the examiner checks his impression under "C" he has expressed the opinion that more elaborate roentgenological examination is highly desirable.

CHEST SURVEY

Empson
1-2

1060

268 a

UNITED STATES DEPARTMENT OF LABOR
BENEFITS REVIEW BOARD

JOSEPH S. SOBOLEWSKI,

Deceased Claimant

Case No. 76-LHCA-20
OWCP No. 1-15584

HELEN SOBOLEWSKI,

Widow

VS.

FILED AS PART
OF THE RECORD
JUL 7 1976

GENERAL DYNAMICS CORPORATION

Employer/Self Insurer

(date)

INSURANCE COMPANY OF NORTH AMERICA

Carrier

SBR

(Clerk)

NOTICE OF APPEAL

Benefits Review Board

The employer/self insurer hereby appeals to the Benefits Review Board from the Decision of the Administration Law Judge Louis Scalzo in the above captioned matter, filed in the Office of the Deputy Commissioner for the First Compensation District of the United States Department of Labor, Employment Standards Administration, Office of Workmen's Compensation Programs.

DATED AT BOSTON, MASSACHUSETTS, THIS 25th DAY OF JUNE. 1976.

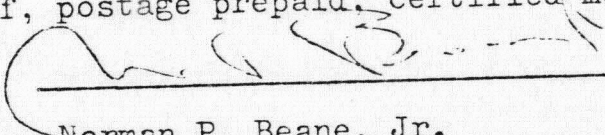
Norman P. Beane, Jr.

Norman P. Beane, Jr.
Murphy and Beane
160 State Street
Boston, Massachusetts

JUL 7 1976
U.S. DEPARTMENT OF LABOR
BENEFITS REVIEW BOARD

CERTIFICATE OF SERVICE

I hereby certify that on June 25, 1976, I served the foregoing Employer/Self Insurer's Notice of Appeal on the parties of record. Matthew Shafner, Esquire, Bridge Street at Route One, P.O. Box Drawer 929, Groton, Connecticut 06340, Douglas B. Johnson, Esquire, 119 Church Street, New Haven, Connecticut 06510, Frank Daley, Esquire, 205 Church Street, New Haven, Connecticut 06510, Stanley C. Wollaston, Deputy Commissioner, U.S. Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs, John F. Kennedy Building, Boston, Massachusetts 02203. by mailing a copy thereof, postage prepaid, certified mail.



Norman P. Beane, Jr.

270 a

FILED AS PART
OF THE RECORD
AUG 10 1976

UNITED STATES DEPARTMENT OF LABOR
BENEFITS REVIEW BOARD

(date)

SBR

(Clerk)

Benefits Review Board

HELEN SOBOLEWSKI,

Claimant

VS.

BRB 76-306

GENERAL DYNAMICS CORPORATION,
Employer/Self-Insurer

PETITION FOR REVIEW

The employer/self-insurer, pursuant to Section 921, Subsection b (3) of Title 33 U.S.C.A., appeals the determination of the Administrative Law Judge in the above captioned matter on the basis that substantial questions of law and fact are raised by the decision therein contained and said issues are more specifically identified as follows:

1. The record, considered as a whole, does not support the decision of the Administrative Law Judge that General Dynamics, as self-insurer, is responsible for compensation payments as a matter of law and fact.
2. The determination of the average weekly wage by the Administrative Law Judge is incorrect as a matter of law and fact.
3. The amount of the attorney's fees awarded by the Administrative Law Judge is incorrect as a matter of law and is founded on factual inaccuracies.

By its Attorney:

Norman P. Beane, Jr.
Norman P. Beane, Jr.,
Attorney for General Dynamics

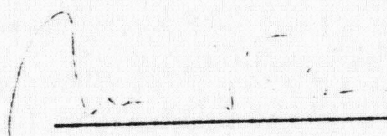
CERTIFICATE OF SERVICE

I hereby certify that the foregoing Petition For Review was served on the parties of record, certified mail, postage prepaid on August ,1976.

Matthew Shafner, Esquire
Bridge Street at Route One
P. O. Drawer 929
Groton, Connecticut 06340

Miss Laurie M. Streeter
Associate Solicitor
U. S. Department of Labor
Suite N-2716 NDOL
Washington, D. C. 20210

Douglas B. Johnson, Esquire
109 Church Street
New Haven, Connecticut 06510





Docket No. 77-4088

CERTIFICATE OF SERVICE OF APPENDIX

WE HEREBY CERTIFY that one (1) copy of the within appendix was
this date mailed to the following:

- 1) Matthew Shafner, Esq.
O'Brien, Shafner, Garvy, Bartnik & Stuart
Attorneys for Respondent, Helen Sobolewski
Bridge Street - At Route One
Drawer 929
Groton, Conn. 06340
(203) 445-2463
- 2) Frank W. Daley, Esq.
Attorney for Respondent, Insurance Company
of North America
205 Church Street
New Haven, Conn. 06510
(203) 865-3145
- 3) Miss Laurie M. Streeter
Associate Solicitor
Attention: Mary Sheenan, Esq.
U.S. Department of Labor/OWCP
Attorney for Respondent, Director, Office
of Workers' Compensation Programs
Suite N-2716
200 Constitution Avenue, N.W.
Washington, D.C. 20210
(202) 523-7580
- 4) Benefits Review Board of United States
Department of Labor
Office of Workers' Compensation Programs
Operations Division
New Labor Building
Room S-2002
Washington, D.C. 20210

Dated: New York, New York
June 24, 1977

KIRLIN, CAMPBELL & KEATING

By: *Alfred Vital*
Attorneys for Petitioner
120 Broadway
New York, New York 10005